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ABSTRACT

The booklet presents the text of the Developmental Disabilities Act of 1984, which retains most provisions of, amends some provisions of, and reorganizes the parts of, the Developmental Disabilities Assistance and Bill of Rights Act. Following brief background information, a section-by-section summary of the Act's revisions is offered. A discussion of the committee bill notes reorganization of the Act into five sections: (1) general provisions, (2) federal assistance for planning and service activities for persons with developmental disabilities, (3) protection and advocacy of individual rights, (4) university affiliated facilities, and (5) special projects. The booklet concludes with a print of the existing statute in roman print and the committee bill in italic. (CL)

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98-493

DEVELOPMENTAL DISABILITIES ACT OF 1984

MAY 25, 1984.—Ordered to be printed

Filed under authority of the order of the Senate of May 11 (legislative day, April 30), 1984

Mr. HATCH, from the Committee on Labor and Human Resources, submitted the following

REPORT

[To accompany S. 2573]

The Committee on Labor and Human Resources, to which was referred the bill (S. 2573) to extend programs under the Developmental Disabilities Act, and for other purposes having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

I. BACKGROUND OF S. 2573

The Subcommittee on the Handicapped held a hearing on February 23, 1984, to review accomplishments of programs authorized by the Developmental Disabilities Assistance and Bill of Rights Act and consider recommendations for changes in the Act. Witnesses appearing before the Subcommittee included the Commissioner of the Administration on Developmental Disabilities of the U.S. Department of Health and Human Services, representatives of Developmental Disabilities Planning Councils, Protection and Advocacy Systems, University Affiliated Facilities Programs, Special Projects Grants and the Consortium for Citizens with Developmental Disabilities.

On May 7, 1984, the Subcommittee on the Handicapped reported S. 2573 with amendments for reauthorization of the Developmental Disabilities Assistance and Bill of Rights Act. On May 9, 1984, the Full Committee unanimously moved to order the bill, as amended, reported to the Senate.

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II. Section-by-Section Summary

The provisons summarized below are from the Development Disabilities Act of 1984. The 1984 Act retains most provisions of the current Developmental Disabilities Assistance and Bill of Rights Act, amends some provisions of such Act and reorganizes the parts of such Act. The current Developmental Disabilities Assistance and Bill of Rights Act amends title I of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1983. Upon enactment, the 1984 Act may be cited as the Developmental Disabilities Assistance and Bill of Rights Act.

The section numbers used below will be the section numbers of the revised Developmental Disabilities Assistance and Bill of Rights Act when enacted. S. 2573 consists of three sections:

Section 1 provides that this Act may be cited as the Developmental Disabilities Act of 1984.

Section 2 amends title I of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 and includes all programmatic provisions of the bill.

Section 3 sets forth the dates upon which the provisions of section 2 become effective.

PART A—GENERAL PROVISIONS

Section 101. Findings and purposes

Subsection (a) retains congressional findings regarding the need for specialized lifelong services for persons with developmental disabilities.

Subsection (b) amends current law by adding that the purpose of this title is to help assure that persons with developmental disabilities achieve their maximum potential through increased independence, productivity and integration into the community.

Section 102. Definitions

Subsection (8) defines "independence" to mean the extent to which persons with developmental disabilities exert control over their own lives.

Subsection (9) defines "productivity" to include engagement in income-producing work or work which contributes to a household or community.

Subsection (10) defines "integration" to include the use of community resources that are used by nonhandicapped citizens and the residence in homes or home-like settings which are near community resources and which include contact with nonhandicapped persons.

Subsection (11)(A) retains most provisions of "services for persons with developmental disabilities" and adds preventive services to the listing of authorized services.

Subsection (11)(C) amends "priority services" to mean alternative community living arrangement services, employment related activities and child development services. Case management services are included in the definitions of these three terms.

Subsection (11)(E) defines "employment related activities" to mean services to increase independence, productivity or integration

in work settings, including employment preparation and training leading to supported employment, incentive programs for employers and transition services from special education to employment and from sheltered work to supported or competitive employment.

Subsection (11)(F) defines "supported employment" to mean paid employment for persons for whom competitive employment at or above the minimum wage is unlikely and who, because of their disabilities, need intensive, ongoing support in a work setting, including settings in which nonhandicapped persons are employed. The support includes any activity needed to sustain paid work including supervision, training and assistance with transportation.

Subsection (12) expands the definition of "satellite center" to allow such centers to include all functions of university affilitated facilities.

Subsection (13) amends "university affiliated facility" to include at least the following activities: interdisciplinary training conducted at the facility and through outreach activities, exemplary services in community settings, and technical assistance and dissemination of findings to increase independence, productivity and community integration of persons with developmental disabilities.

Section 102 retains current definitions for the following terms: State, facility for persons with developmental disabilities, construction, cost of construction, title, developmental disability, Secretary, State planning council, child development services, and alternative community living arrangement services.

Section 103. Federal share

Subsection (a) amends current law to allow the Federal share of the State grant program projects to be 75 percent of the aggregate cost of such projects, except in poverty areas where the Federal share may be 90 percent of such aggregate cost.

Section 104. Records and audits

This section retains the provisions of current law which require that recipients of assistance under this title keep records including the amount and disposition of proceeds, total project cost, and other funding sources.

Section 105. Recovery

This section retains provisions pertaining to recovery of funds used for construction of facilities if such facility is sold or ceases to be used for persons with developmental disabilities.

Section 106. State control of operations

This section retains provisions restricting Federal involvement in State operations including administration, personnel and maintenance or operation of any facility.

Section 107. Reports

Subsection (a) amends current law by requiring State planning councils to submit an annual report to the Secretary concerning activities under the State grant program to include a description of activities and accomplishments, a comparison of accomplishments and goals and objectives, an accounting of State grant funds, speci-

fication of funds allotted to various types of agencies, and attendance at State planning council meetings of council members.

Subsection (b) amends current law requiring protection and advocacy systems to submit an annual report to the Secretary which describes its activities and accomplishments.

Subsection (c) amends current law by requiring the Secretary to submit to the President, the Congress, and the National Council on the Handicapped an annual report on the programs authorized under the Act, progress made and services needed to improve the independence, productivity and integration into the community of persons with developmental disabilities. In addition the Secretary is to submit a report on the States' manpower and training assessments.

Section 108. Responsibilities of the Secretary

Subsection (a) retains the requirement that the Secretary promulgate regulations not later than 180 days after enactment of any Act amending the provisions of title I.

Subsection (b) adds a provision requiring the Secretary of Health and Human Services and the Secretary of Education to establish an interagency committee composed of representatives of the Administration on Developmental Disabilities, the Office of Special Education and Rehabilitative Services and other Federal departments as appropriate to plan and coordinate Federal activities for persons with developmental disabilities.

Section 109. Employment of handicapped individuals

This section retains the provision of current law which requires the Secretary to assure that recipients of assistance under this title take affirmative action to employ qualified handicapped individuals.

Section 110. Rights of the developmentally disabled

This section retains provisions of current law which present congressional findings regarding rights of persons with developmental disabilities. Such rights include treatment, services and habilitation designed to maximize developmental potential. Services are to be provided in a setting which is least restrictive of the person's liberty.

PART B—FEDERAL ASSISTANCE FOR PLANNING AND SERVICE ACTIVITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

Subsection 121. Purpose

This section amends current law by adding a statement of purpose that this part is to provide payments to States to plan and conduct activities that will increase and support independence, productivity and community integration of persons with developmental disabilities.

Section 122. State plans

Subsection (a) retains the requirement that a State plan must be submitted to participate in the State grant program. This subsection is amended by a requirement that the State may not consoli-

date the State plan with any other State plan and may not substitute any other plan for the required State plan unless the State Planning Council and the State administering agency consent in writing to such consolidation or substitution.

Subsection (b) (1) adds a requirement that the State plan provide that each designated State agency make reports and maintain access to records as needed by the Secretary or the State planning council.

Subsection (b) (3) adds a requirement that not more than 25 percent of State grant funds are to be allocated to the designated State agency for the provision of services by such agency.

Subsection (b) (4) retains the requirement that States examine the provision of and the need for all priority services every three years. The subsection amends the priority services areas so that employment related activities must be specified as a priority in the State plan and in addition either community living arrangement services or child development services. When the appropration for the State grant program exceeds $60,000,000 States may choose all three priority services. The plan must provide that no less than 65 percent of the allotment will be spent for service activities in priority areas of service. The plan is to provide that the remainder of the funds available be used for service activities and for planning, coordinating and advocacy activities related to provision of service.

Subsection (b)(5) retains current provisions regarding standards for services and facilities and rights of persons served under the plan. This subsection adds a provision that States are to provide planning councils a copy of each annual survey report and plan of corrections of intermediate care facilities for the mentally retarded in such State within 30 days after the completion of such report. (Intermediate Care Facilities for the Mentally Retarded under Title XIX of the Social Security Act).

Subsection (b)(6) amends current law by requiring the State plan to provide for an assessment of the need for professionals and paraprofessionals in the field of developmental disabilities in the State and for the training of such persons. The assessment is to be paid for with State grant funds not used for priority services. Preference in arranging the conduct of such assessment is to be given to University Affiliated Facilities and Satellite centers.

Section 123. Habilitation plans

This section retains provisions of current law regarding requirements for a written habilitation plan for each person receiving services under the State grant program.

Subsection (b)(3) amends this section by requiring that the long-term habilitation goals set forth in the habilitation plan include the increase or support of independence, productivity and integration into the community for the developmentally disabled person.

Section 124. State planning councils

This section retains provisions of current law specifying requirements regarding the State planning council which is to serve as an advocate for persons with developmental disabilities.

Subsection (a)(1) adds the requirement that each council at all times include in its membership representatives of the State agen-

cies administering funds provided under the Rehabilitation Act of 1973, the Education of the Handicapped Act and the Medicaid program (title XIX of the Social Security Act). In addition, the protection and advocacy system and each University Affiliated Facility or Satellite center in the State is to be represented on the State council.

Section 125. State allotments

Subsection (a)(1) retains the provisions of current law which determines the allotment of funds under the State grant program. The allotment to States is based on population, the extent of need for services for developmentally disabled persons and financial need.

Subsection (a)(2) amends current law by requiring that the Secretary not revise the basis on which allotments are made more than once every three years. When revisions are to be made, the Secretary is to provide written notice of the change to States at least six months prior to the date of submission of the State plan.

Subsection (a)(3)(A) adds a provision that requires that a State's allotment may not be less than the amount received in FY 1984.

Subsection (a)(3)(B) adds a provision which sets the State grant minimum allotment at $135,000 for the territories and $300,000 for the States when the total appropriation exceeds $45,000,000.

Section 126. Payments to the States for planning, administration, and services

This section retains provisions of current law which require that the State be paid the Federal share of expenditures, other than expenditures for construction, incurred under its approved State plan. Payments are to be made in advance with adjustment for previously made underpayments or overpayments.

Section 127. Withholding of payments for planning, administration, and services

This section retains provisions of current law which allow for withholding of payments if there is a failure to comply substantially with the provisions of the approved State plan or with the regulations.

Section 128. Nonduplication

This section retains provisions of current law which prohibit expenditure of Federal funds under this part for services funded by Federal funds from any other source or by matching funds required by such other Federal funds.

Section 129. Applications and conditions for approval

This section retains provisions of current law which specify the appeal process available to any State dissatisfied with the State plan approval process or with the withholding of Federal funds under this part.

Section 130. Authorization of appropriations

For State allotments under this part, this section authorizes $54,500,000 for FY 1985, $58,300,000 for FY 1986 and $62,400,000 for FY 1987.

PART C—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

Section 141. Purpose

This section adds to current law a statement of purpose which specifies this part is to help support a system in each State to protect the legal and human rights of persons with developmental disabilities.

Section 142. System required

Subsection (a) retains the provisions of current law requiring States to have in effect a system to protect and advocate the rights of persons with developmental disabilities.

Subsection (a)(2)(A) adds a provision that the system is to have the authority to provide information and referral to programs and services addressing the needs of persons with developmental disabilities.

Subsection (a)(2)(D) requires that the system must have access to the records of developmentally disabled persons living in residential facilities if a complaint has been received on behalf of such person and if such person does not have a legal guardian or if the State is [illegible] legal guardian. Prior to October 1, 1986, this access provision does not apply to any State in which State law prohibits such access.

Subsection (a)(3) adds a new provision that funds allotted to the State under this section are to be used to supplement the level of funds available and not to supplant non-Federal funding.

Subsection (a)(4) adds a requirement that States provide protection and advocacy systems a copy of each annnual survey report and plan of corrections made with respect to any intermediate care facility for the mentally retarded within 30 days of completion of such report and plan.

Subsection (a)(5) adds a requirement that States submit to the Secretary a report describing the protection and advocacy system and the expenditures of such system 90 days after the end of each fiscal year.

Subsection (b) adds a provision that States may not redesignate the administering agency for the protection and advocacy system unless the State determines that good cause exists to warrant such redesignation. If a State determines that good cause exists, the State must give public notice of its intent and give persons with developmental disabilities or their representatives an opportunity to comment on such proposed redesignation.

Subsection (d) retains the provision that requires that funds for protection and advocacy systems be allotted on the same basis as funds under the State grant program.

Subsection (d)(1)(A) adds a provision that a State is not to receive an allotment that is less than the allotment received in FY 1984.

Subsection (d)(1)(B) adds a provision that territories receive not less than $60,000 and States receive not less than $100,000 for protection and advocacy systems when the total appropriation exceeds $9,500,000.

Subsection (d)(2) adds a provision that a State may not use more than 5 percent of its allotment for this program for the costs of monitoring the administration of its protection and advocacy system.

Section 143. Authorization of appropriations

For protection and advocacy systems authorized under this part, this section authorizes $15,000,000 for FY 1985, $16,100,000 for FY 1986 and $17,200,000 for FY 1987.

PART D—UNIVERSITY AFFILIATED FACILITIES

Section 151. Purpose

This section adds to current law a statement of purpose which specifies that University Affiliated Facilities are to assist in the provision of interdisciplinary training, service demonstration programs and dissemination of information to increase and support the independence, productivity and integration into the community of persons with developmental disabilities.

Section 152. Grant authority

This section retains provisions of current law authorizing the Secretary to make grants to University Affiliated Facilities.

Subsection (b)(2) adds a provision authorizing the University Affiliated Facilities to provide service-related training to parents of persons with developmental disabilities, professionals, volunteers or personnel to provide services to increase or maintain the independence, productivity and integration into the community of persons with developmental disabilities.

Subsection (d) adds a provision prohibiting the Secretary from making a grant to a new university affiliated facility or a satellite center after September 30, 1985, unless a feasibility study has been conducted.

Subsection (e) adds a provision which authorizes the Secretary to spend funds in excess of $7,800,000 in the following order of priority: to establish new satellite centers and university affiliated facilities, to make grants to existing satellite centers that have the capacity to become university affiliated facilities, to make grants to existing university affiliated facilities and satellite centers.

Section 153. Applications

This section retains provisions related to applications for grants under this part. The minimum grant for a university affiliated facility remains at $150,000 and the minimum grant for a satellite center remains at $75,000 for any fiscal year.

Subsection (b)(3) adds a requirement that applications for funds under this part must include assurances that the human rights of all persons with developmental disabilities who are receiving services under the project will be protected according to the rights included under section 110 of this Act.

Section 154. Authorization of appropriations

For University Affiliated Facilities and Satellite centers authorized under this part, this section authorizes $9,400,000 for FY 1985, $10,000,000 for FY 1986 and $10,800,000 for FY 1987.

PART E—SPECIAL PROJECT GRANTS

Section 162. Grant Authority

This section retains provisions of current law that authorize the Secretary to make grants to public or nonprofit agencies for demonstration projects which are of national significance and which hold promise of expanding or improving services to persons with developmental disabilities.

Subsection (b) adds a requirement that applications for funds under this part must include assurances that the human rights of all persons with developmental disabilities who are receiving services under the project will be protected according to the rights included under section 110 of this Act.

Subsection (d) adds a provision prohibiting the Secretary from consolidating the authority to make grants under this section with any other authority to make grants which the Secretary has under any other law.

Section 163. Study on intermediate care facilities for the mentally retarded

This section adds a new provision which requires the Secretary to prepare and submit to Congress a report containing recommendations for improving services for mentally retarded and developmentally disabled persons under an approved State plan under title XIX of the Social Security Act. The report is to be completed within six months of enactment of the 1984 Act. The report and recommendations are to address improvements in services that will increase the independence, productivity and integration into the community of mentally retarded persons and persons with developmental disabilities. The report is to include recommendations regarding the waiver program under which persons are served in small, community settings.

Subsection (b) requires the establishment of a task force to assist the Secretary in preparing the report. The task force is to include representation from the following agencies: Health Care Financing Administration, Administration on Developmental Disabilities, National Council on the Handicapped and the Office of Special Education and Rehabilitative Services.

Subsection (c) adds a provision that not more than $75,000 of the amount appropriated under this part for FY 1985 be used to conduct this study.

Section 164. Authorization of appropriations

For special projects and the study authorized under this part, this section authorizes $3,200,000 for FY 1985, $3,700,000 for FY 1986 and $4,000,000 for FY 1987.

SECTION 3—EFFECTIVE DATE

All provisions of this Act are to take effect on October 1, 1984, except for the following sections: section 108(b) which authorizes the interagency committee, section 153(a) which requires the promulgation of regulations for the university affiliated facilities and section 163 which requires the study of the intermediate care facilities for the mentally retarded. These three provisions take effect on the date of enactment of this Act.

III. Discussion of the Committee Bill

INTRODUCTORY STATEMENT

The Committee Bill reorganizes the current Act into five discrete sections:

Part A: General Provisions.
Part B: Federal Assistance for Planning and Service Activities for Persons with Developmental Disabilities.
Part C: Protection and Advocacy of Individual Rights.
Part D: University Affiliated Facilities.
Part E: Special Projects.

This reorganization was undertaken to improve the coherence of the Bill. Aside from the General Provisions Section, each subsequent section describes one of the four programs authorized by the Act. The initial sections of Parts B, C, D, and E outline the purpose of the program described under that part.

JUSTIFICATION OF INCREASED AUTHORIZATIONS

In FY 1978 the total appropriations for the developmental disabilities program was $59,125,000. By FY 1984, the appropriation had increased less than 5 percent to $62,010,000. During the same period, the cost of living increased approximately 53 percent. To help correct this severe reduction in buying power, the Committee Bill proposes a 28 percent increase in overall authorization levels in FY 1985. For FY 1986 and FY 1987, overall authorizations would increase 7 percent over the previous year's authorizations.

These increases are needed because the developmental disabilities program is the only Federal program designed to address the comprehensive needs of persons with developmental disabilities, the most severely disabled group in our Nation. The planning and coordination which take place at the State level have been effective in bringing other sources of funds into the service system to help expand services to persons with developmental disabilities. Furthermore, the protection and advocacy systems have done an exemplary job in ensuring that the rights of persons with developmental disabilities are upheld. Additional funding is needed to carry on both these essential functions.

GENERAL

The Committee bill retains as the overall purpose of the program the provision, coordination, planning and monitoring of services for persons with developmental disabilities in order to enable such persons to reach their maximum potential. The Committee Bill, how-

ever, further refines the purpose of this program to place increased emphasis on increasing and maintaining the independence, productivity and community integration of persons with developmental disabilities. This emphasis reflects the Committee's intent that the most important results of activities carried out under the Act are the benefits received by persons with developmental disabilities.

With the establishment of independence, productivity and community integration as focal points of the Bill, the Committee intends to provide both a philosophy for service provision, as well as a means to assess the effectiveness of services. As a philosophy for service provision the concepts of independence, productivity and community integration emphasize that services for persons with developmental disabilities should be organized and provided so that the individuals served experience lives similar to non-handicapped persons. As a means for assessing the effectiveness of services provided for persons with developmental disabilities, independence, productivity and community integration affirm that the outcomes received by consumers represent the most important feature of any service.

These expected outcomes focus on the current experiences and conditions of persons with disabilities, not on the expected benefits to be achieved after a lengthy period of services. If services funded under the this Act are effective, the ongoing opportunities for developmentally disabled persons to experience increased independence, productivity and community integration should be expanded.

The Committee finds that, independence, productivity and community integration are attainable conditions. Persons with even the most severe disabilities can exercise choice, engage in productive work and enjoy contact with others. These benefits need not be rationed out to the most capable nor postponed for the future during long periods of readiness activities.

DISCUSSION OF AMENDMENTS

Part A—General provisions

Findings and Purposes (Section 101)

The description of findings and purposes for the developmental disabilities legislation was first made a part of the Act in 1978. The Committee Bill amends this section by focusing on maximizing the potential of a developmentally disabled person through increased independence, productivity and integration into the community.

This Section is also amended by directing states to "operate" rather than "establish" systems which assist developmentally disabled persons in receiving the care, treatment and other services that they need to achieve their maximum potential. This change was made because every state has already established such systems.

Definitions (Section 102)

The Committee Bill retains existing definitions with the exception of "priority services" and "case management" and adds the definitions of "independence", "productivity", "integration", "em-

ployment related activities", and "supported employment". The definition of "case management" has been omitted because case management activities have been subsumed under each of the priority service areas. The definitions of a "satellite center" and a "university affiliated facility" have also been expanded.

The concepts of "independence", "productivity" and "integration" are defined in section 102. It is the Committee's intent that these three concepts act as the driving force in all activities undertaken by programs authorized under this Act. Persons served by programs under this Act should show increased or maintained levels of exerting control and choice over their own lives—or increased levels of independence. Persons served by programs under this Act should show increased or maintained levels of productivity—or the participation in paid work or work contributing to a household or community. Persons served by programs authorized under this Act should show increased or maintained integration into the community—that is the use of the same community resources that non-handicapped citizens use together with regular contact with non-handicapped citizens. Community integration also includes the residence of developmentally disabled persons in homes or home-like settings in the same areas where non-handicapped citizens live. Regular contact with non-handicapped citizens is also essential for community integration.

Priority Services

The role of the State Developmental Disabilities Planning Councils in disbursing state grant funds is to plan, coordinate and provide "seed money" for exemplary and gap-filling services for developmentally disabled persons. The Committee intends the Developmental Disabilities Program to lead the field in developing initiatives and exploring the frontier of best practices for developmentally disabled persons.

In 1978, Congress required States to select priorities for services to developmentally disabled individuals and to concentrate their funds on the service areas selected. The House Report (95-1188) on the 1978 Developmental Disabilities Act makes the following statement:

> Lacking clear legislative or administrative guidance concerning expenditure priorities, States have been faced with the uneviable task of addressing a seemingly endless array of service needs with inadequate financial resources. In an effort to address this problem, the following four areas of priority service areas have been identified: individual case management services, child development services; alternative community living arrangements services; and non-vocational social developmental services. In addition, as long as a State has selected at least one of the above areas of priority service, it would be permitted, on an optional basis, to specify another service area in its State plan which it determined to be a particular priority. (H. Rept. 95-1188)

Because of overwhelming evidence of the critical national need for the provision of an array of adult services, the Committee Bill has focused the priority services on adults. The "employment related activities" priority is mandated for every state. States may choose as a second priority either "alternative community living arrangements" or "child development services". The principle reasons for this tremendous need for expanded adult services are the twin occurances of "aging out" by special education students and increased deinstitutionalization.

At the Subcommittee on the Handicapped hearing on February 23, 1984 on the reauthorization of the Developmental Disabilities Act, Senator Lowell Weicker, Chairman, asked the Commissioner of the Administration on Developmental Disabilities, "What are the most critical continuing unmet needs of our Nation's developmentally disabled citizens?" Dr. Jean Elder, the Commissioner, replied "Nationally, an important concern is the issue of 'aging out'. Primarily, service delivery systems in most states serve developmentally disabled persons from age 0 to 21. A system is in place and there is a given lead agency in most states where families can go for appropriate services. Beyond the age of 21 we cannot make that statement."

In her testimony before the Subcommittee on the Handicapped, Ms. Nancy Mattox of the West Virginia Protection and Advocacy Program stated the following: "Some of us have been involved in another war, the problem of securing services for those who have 'aged out' of available school programs, past the age 21, or 23 in our State. It is the frustration of our work, since most of our work is in the area of education, to take children successfully through public education, have them graduate, and then to find out that they are all dressed up with no place to go, that they have no vocational opportunities available to them after graduation from high school."

A report from the Inspector General of the Department of Health and Human Services entitled "A Program Inspection on Transition of Developmentally Disabled Young Adults from School to Adult Services" makes the following points:

> In each of the next few years there will be about 90,000 DD students leaving school and seeking adult services of some type. While several states have been dealing actively with the transition problem as an urgent matter, in most places it is seen more as an emerging issue related to the convergence of three factors: increased parental expectations for appropriate community services; fragmented nature of the existing adult service delivery system; and continued limited availability of certain adult services.
>
> The schools have no formal responsibility for developing a program of services for the child after he or she leaves school or for assisting the parent in making contact with other case managers or adult service providers.
>
> In many places, parents and families of developmentally disabled children face a time of crisis when their children turn 21 and are no longer eligible for public school service.

The deinstitutionalization movement currently underway has worked in conjunction with the "aging out" concern to create a

need for expanded community services for developmentally disabled adults. In testimony presented to the Senate Finance Committee on S. 2053, The Community and Family Living Amendments of 1983, The National Association of State Mental Retardation Program Directors, Inc. stated that, "Thousands of mentally retarded and other developmentally disabled persons who currently reside in public and private institutions would benefit from transfer to less-restrictive, community-based care settings."

An August 1983 General Accounting Office Report stated that mental retardation officials estimated that 19,500 presently institutionalized residents were inappropriately placed and awaiting community placement.

In one institution alone, Rosewood Center in Owings Mills, Maryland, it was estimated that only 119 (or 9%) of the approximately 1,125 residents required an institutional placement. (February 19, 1982 letter to Governor Harry Hughes from William Bradford Reynolds, Assistant Attorney General, Civil Rights Division, U.S. Department of Justice).

Movement from institutions into the community for developmentally disabled persons is occurring. A February 1984 CRS report, "S. 2053 and the Transfer of Mentally Retarded Persons from Large Institutions to Small Community Living Arrangements" states that the total institutional population has decreased 20% since 1976. However, it is critical to note that while this general decrease was occurring there was a 15% increase in the institutionalized population age 22 or older. The Committee believes that a major factor in this increase is the lack of alternative community services available for developmentally disabled adults.

In testimony submitted to the Senate Finance Committee on S. 2053, The American Association of University Affiliated Programs for persons with Developmental Disabilities stated that the return of institutionalized persons to the community "must be preceded by systematic planning for and a concomitant commitment regarding community-based support."

It is the two current forces of "aging out" and "deinstitutionalization" that have created a critical need for the development, expansion and improvement of community based services—both for living arrangements and working arrangements—for developmentally disabled adults. For these reasons the Committee Bill has intensified the focus of the priority areas to target adult services.

Employment Related Activities (Section 102(10)(E))

"Employment Related Activities" is a new priority which is required in every state. It has become apparent from demonstrations across the country that developmentally disabled adults, particularly those who have had the prior advantage of integrated educational programs made possible under PL 94-142, The Education of All Handicapped Children's Act, are more capable of productive employment that previously believed. Research throughout the decade has documented that persons with developmental disabilities can learn and perform remunerative work skills. Many persons with developmental disabilities hold regular jobs; others previously thought to be incapable of working now engage in remunerative

employment in supervised settings. At the same time, however, national data has shown that current services and work opportunities available to persons with developmental disabilities fall far short of the documented employment possibilities; movement from non-vocational and pre-vocational programs to employment preparation services is minimal; wages for persons with developmental disabilities are very low and adults with developmental disabilities who could be competitively employed remain in sheltered workshops.

In responding to a question by Senator Lowell Weicker at the February 23, 1984 hearing on the reauthorization of the Developmental Disabilities Act, Dr. Larry Rhodes, Project Coordinator of the Specialized Training Program at the University of Oregon, stated that "Nearly a decade of national data leads to the inescapable fact that the vast majority of developmentally disabled adults are unemployed, and that training programs are not leading to employment."

Mr. Ed Preneta, Executive Director of the connecticut Developmental Disabilities State Planning Council stated in his testimony that "we need competitive employment for persons who are bright but who are also severly and multiply handicapped. This is a population that Vocational Rehabilitation has failed to serve. Our Vocational Rehabilitation system does not reach them."

The Committee finds a critical national need for the development of alternative employment opportunities and services and has thus mandated "employment related activities" as a priority in every state. Important examples of innovative services to implement the priority are supported employment programs as alternatives to non-vocational and pre-vocational services for the most severely disabled persons; programs of competitive employment preparation and placement for persons now in sheltered workshops; and new programs for transition from school to employment.

The Committee intends that case management activities be provided in so far as they facilitate employment related activities. This includes client identification, assessment, referral, individual planning and monitoring and other services a client might need in order to benefit from employment related activities.

Supported Employment (Section 102(10)(F))

While many persons with developmental disabilities can use existing vocational rehabilitation services and progress to unsupported competitive employment, research and demonstration show that others can maintain employment only when ongoing support is provided. Currently, several Federal and State programs provide the needed long term support in day activity programs, day habilitation programs and pre-vocational programs, however, few provide the needed support in the context of a work setting. Innovative supported employment programs combine this long term support with paid work opportunities.

Supported employment can occur in a variety of circumstances. Examples of this include (1) enclaves of workers in industry with employer incentives to compensate for increased overhead and professional supervisors to train the workers; (2) work crews with disabled adults performing meaningful work at appropriate wages

under professional supervision; (3) individual job placement with backup support from a service organization and (4) small enterprises or subcontract programs that receive service fees and employ persons with developmental disabilities. Ongoing support involves continuous access to intervention and support services including retraining, additional supervision, personal care, transportation and behavior management.

The Committee clarifies a critical distinction between vocational rehabilitation services and supported employment in terms of the duration and purpose of the services. Unlike vocational rehabilitation services, which are considered successful upon service completion or termination, services in supported employment are expected to endure throughout the employment period. Vocational Rehabilitation prepares people for employment; supported employment services assist those who require help in maintaining employment. Supported employment differs from non-vocational and pre-vocational services in its focus on the current and ongoing employment outcomes received by the individuals.

Transition from School to Work (Section 102(10)(E))

Programs to support transition from school to work are another example of programs which could be funded under the "Employment Related Activities" priority. As students are "aging out" of the educational entitlement provided by Public Law 94-142, The Education of All Handicapped Children's Act, they need services to ensure them a smooth transition from school to employment with the opportunity to enter productive work roles either immediately upon leaving school or after a period of postsecondary education or other adult services. As a result of their public school experiences, developmentally disabled persons now leaving the schools may have quite different service needs than individuals served in existing community programs who may not have had the benefit of services provided under Public Law 94-142. Transition programs should identify alternative methods of serving persons with developmental disabilities leaving the schools which will reduce their future reliance on public services and foster independence, productivity and integration into the community.

The Committee urges State Planning Councils to coordinate transition services funded under this Act with any transition services in the State which are funded under Public Law 98-199, The Education of the Handicapped Act Amendments of 1983. Section 626 of Public Law 98-199 authorizes $6 million for fiscal year 1985 for model and demonstration transitional programs.

Services to Assist Transition from Sheltered Work Settings to Supported Employment or Competitive Employment (Section 102(10)(E))

It has been documented that many developmentally disabled persons currently working in sheltered workshops are capable of employment in integrated setting with support, or in competitive settings. While developmentally disabled persons have the potential to work in settings which challenge them to meet their potential and increase their independence, productivity, and integration, there

has been little movement by these individuals into more competitive less restrictive settings. Yet a network of model and demonstration projects does exist which clearly documents the success of developmentally disabled persons in competitive and supported settings. Movement of developmentally disabled persons from workshops into less restrictive work settings will necessitate coordination with other programs which offer vocational and employment services to handicapped persons, such as the Jobs Training Partnership Act (JTPA) and Vocational Rehabilitation. The ongoing life long support services required by developmentally disabled persons should be an essential consideration of programs offered under this option.

Alternative Community Living Arrangements (Section 102(10)(D))

The "alternative community living arrangement" priority is retained in the Committee Bill. Case management services are added to the definition of this priority as an activity to be conducted in relation to this priority insofar as such activities enable persons to benefit from alternative community living arrangements. The Committee wishes to underscore the critical national need for the development of a system of community living alternatives to serve mentally retarded and developmentally disabled persons.

Child Development Services (Section 102(10)(G))

The priority for "child development services" is retained in the Committee Bill. Case management is added under this priority as a service to be provided insofar as it enables developmentally disabled persons served under this priority to benefit from child development services.

Other Services (Section 102(11)(ii))

Section 102(11)(A)(ii) lists other services which may be chosen by the States. The Committee Bill adds "non-vocational social-developmental services" which is currently a priority area, and "services to promote and coordinate activities to prevent developmental disabilities" as optional service areas.

Qualified Personnel

The Committee intends that to the extent feasible services and/or service models funded by this Act be provided by qualified professionals. Specifically, State Planning Councils should encourage persons or agencies receiving their grant funds to themselves be or to employ properly trained and experienced special educators, vocational rehabilitation counselors, physical, occupational, and speech therapists and such other professionals for whom professional training and experience and are generally expected.

Satellite Centers (Section 102(12))

The definition of "Satellite centers" is expanded to authorize the centers to engage in activities required of University Affiliated Facilities: interdisciplinary training, demonstration, dissemination of findings and provisions of information to researchers and govern-

ment agencies. These activities are optional for the Satellite centers and are in addition to the required function as a community or regional extension of a University Affiliated Facility.

University Affiliated Facilities (Section 102(13))

The definition of a University Affiliated Facility is essentially retained with an increased focus on services provided in integrated settings. Each of the three mandatory activities provided by University Affiliated Facilities is expanded. The Committee Bill requires that interdiciplinary training be provided through outreach activities as well as at the Facility itself. The Committee intends that University Affiliated Facilities interdisciplinary training programs reach out into the community and may be conducted in such settings as schools, group homes, recreation departments, etc. The Committee Bill requires that at least some exemplary services for persons with developmental disabilities be conducted in settings which are integrated into the community. It is the Committee's intention that the University Affiliated Facilities should conduct as many demonstration services as possible in integrated settings. The University Affiliated Facilities are also required to demonstrate technical assistance to both generic agencies (such as police departments, fire departments and recreation departments) and specialized agencies (such as special education programs and group homes). The technical assistance provided by University Affiliated Facilities should be designed to increase the independence, productivity and community integration of persons with developmental disabilities. An example of technical assistance might be the development and improvement of quality assurance mechanisms for community group homes.

The final required activity for the University Affiliated Facilities is the dissemination of findings relating to the provision of demonstration services and technical assistance conducted by University Affiliated Facilities. Information is to be provided to researchers and government agencies on the needs for further service-related research which would provide data and information to assist in increasing the independence, productivity and community integration of developmentally disabled persons.

Federal Share (Section 103)

The Committee Bill amends this section so that the matching requirement is based on the total amount of the projects to be funded rather than on a project-by-project basis. The Committee feels that this clarification is necessary as many projects may not require a match. By using the aggregate costs, the State Developmental Disabilities Council has greater flexibility in determining the appropriate matching levels for particular activities.

Reports (Section 107)

Currently, the Basic State Grant program has no requirement authorizing the development of an annual report of the Developmental Disabilities State Program. However, annual reports for this program were required by regulations promulgated in 1975.

The Act was amended in 1978 and again in 1981. The Administration has only recently promulgated regulations, however, they do not contain a requirement for an annual report. This has meant that there has been very little data available to inform Congress, the Administration, professionals and the general public of the accomplishments of the programs. In 1982, the Administration released new guidelines for the Developmental Disabilities State Plan which are recommended for State use but are voluntary. Most States have adopted the format, although many have modified it to suit State purposes. Voluntary annual report guidelines have been developed by State Developmental Disabilities Councils themselves to ensure that some nationwide data is available on the implementation of the 1984–1986 Developmental Disabilities Plans. However, there has been no mandate for the Administration to collect, aggregate, and disseminate this information.

The Act has required Annual Reports from the Protection and Advocacy program since they were first authorized in 1975. These reports have been submitted to the Secretary, but not to Congress. Section 107 in the Committee Bill mandates annual reports by each State Planning Council and Protection and Advocacy Program to be given to the Secretary of Health and Human Services. The Secretary in turn must compile these reports and then transmit a report to Congress on an annual basis on both the State Council activities and the Protection and Advocacy Program.

In July, 1983, the Inspector General of the Department of Health and Human Services, Region IV, submitted a report entitled "Unobligated Federal Funds in State Developmental Disabilities Programs". The report made the following findings:

$11,429,075 was not obligated by the DD Basic State Grant Programs from FY 1978 to FY 1982.

$826,406 was not obligated by the Protection and Advocacy Program from FY 1976 to FY 1982.

Most State respondents were unaware that their program had failed to obligate its total funds.

There is a relationship between the organizational structure in which the DD State agencies are located and the problem of unobligated Basic Grant funds.

When States lapsed Basic Grant funds, communication between the DD planning councils and the administering agencies was usually poor.

State DD programs report receiving little or no information or assistance on uniform fiscal reporting procedures.

There appears to be no systematic means of gathering information, monitoring or managing the fiscal aspects of the formula DD grant program.

Many requirements for the data to be reported in the annual reports are derived from the above cited problems. Congress is also particulary interested in receiving information about how the programs authorized under this Act are resulting in increased independence, productivity and community integration of developmentally disabled persons.

The Committee intends that the Administration on Developmental Disabilities expedite the necessary regulations pertaining to

this section so that Congress will be assured of receiving its first annual report by April 1, 1986.

Interagency Committee (Section 108(b))

The purpose of this section is to require representatives of Health and Human Services and the Department of Education to meet together on a regular basis to share knowledge, to coordinate activites, and to plan joint endeavors. The Committee recommends that this interagency committee meet no less than once each month.

Both the Administration on Developmental Disabilities in the Department of Health and Human Services and the Office of Special Education and Rehabilitative Services in the Department of Education have programs which serve developmentally disabled persons. Recently, both agencies have initiated employment programs for developmentally disabled individuals. Although there are differences in emphasis between these two agencies, the opportunity for redundancy and duplication of effort runs high. Furthermore, to the extent that each is exploring new territory, there is a need to share new findings and developments.

The Committee also recognizes the value of coordination between the agencies of the Federal Government that play vital roles in improving the lives of developmentally disabled citizens. Such agencies include but are not limited to the Civil Rights Division in the Department of Justice, housing programs in the Department of Housing and Urban Development, the Office of Civil Rights of the Public Health Service, the National Institutes of Health, the Health Care Finance Administration and the Social Security Administration in the Department of Health and Human Services, Elementary and Secondary Education and Vocational and Adult Education in the Department of Education and the newly independent National Council on the Handicapped.

The Committee suggests these Federal Agencies meet periodically with the interagency committee when relevant issues concerning developmentally disabled individuals are under discussion and being planned and coordinated.

Rights of the Developmentally Disabled (Section 110)

The section (110) entitled "Rights of the Developmentally Disabled" was enacted in 1975. The Committee Bill does not amend this Section, however, the Committee would like to reaffirm the importance of the Section.

IN 1975, the Committee on Labor and Public Welfare Report on the Developmental Disabilities Assistance and Bill of Rights Act stated that:

> Despite the wide acceptance of newer models of conceptualization regarding mental retardation, testimony before this Committee exposed overwhelmingly that totally unacceptable conditions still prevail in many public and other facilities for the developmentally disabled.

In November, 1983, eight years later the following statements were made about institutions for mentally retarded people before

the Subcommittee on the Handicapped at a hearing entitled "Examination of Allegations concerning the Abuse and Neglect of Mentally Retarded Persons Focusing on Section 504 of the Rehabilitation Act of 1973".

> This testimony specifically addresses conditions presented by these institutions. These conditions were present ten years ago and have persisted to the present time in every institution I have seen. Any variance which exists is the pervasiveness of any single condition.
>
> Over the last 10 years some improvements have occurred predominatly as a result of massive infusions of federal tax dollars, standards for care set by regulations, and the prosecution of civil rights litigation to secure redress of abhorrent living circumstances. However, close scrutiny of these improvements reveals that they are in significant measure due to a reduction in the numbers of people institutionalized and to a massive amount of cosmetic physical improvements to facilities. To the untrained observer, the parent, ocassional vistor, even to institutional staff themselves who have grown immune to what they see day after day, the facade of presentability often masks the real conditions we ask people to endure and accept. As long as we continue to have disabled people living in dangerous, unclean, and non-therapeutic even counter-therapeutic environments, can any of us condone a posture of inaction no matter what the reason? Are we to accept inaction which is grounded in a statement of improvement such as: the incidence of reported abuse has decreased from 100 suspected instances last year to 50, new cottages have been built for 32 people in the last 5 years but there are still 32 others who are living in dangerously unsafe environments. (Kathy Schwaninger, Executive Director, Working Organization for Retarded Children)
>
> What happens, Senator, and I have visited a number of these facilities, is that these people get up in the morning, they are put in a wheelchair, they may be put in front of a TV set, they may be just sitting there, but they stay idle in these wards, where there are 30 people usually to a ward, with maybe 2 or 3 staff members running around, cleaning up the urine, cleaning up the fecal matter, but they are idle, and they stay that way for months and years, at these institutions. (Tim Cook, Director, Western Law Center for the Handicapped)

The 1975 Committee Report continues with the following assertion:

> The Committee is firmly convinced that Congress must take action to ensure the humane care, treatment, habilitation, and protection of mentally retarded and other persons with developmental disabilities. The Federal Government has the responsibility to provide equal protection under the law to all citizens.

These words reflect the Committee's conviction in 1984, just as they did nine years ago in 1975.

Part B—Federal assistance for planning and service activities for persons with developmental disabilities

"Administering Agency/Council Relationships"

There has been confusion about the meaning of the terms "administer the State Plan" and "supervise the administration of the State Plan" as stated in section 122(b)(1)(B). It is the intent of Congress that the designated State administering agency administer the funds appropriated under Part B and do so in a manner directed by the objectives in the State Plan. The State Planning Council (including a representative or representatives from the administering agency) should develop the detailed plan, based on statutory requirements and identified State needs, including decisions regarding how Federal funds are allocated. The Council should participate in the determination of how funds under the Act should be used. When Council and agency views are in conflict, the designated administering agency should not solely decide the purposes to which Federal funds under this Program are applied. The designated agency should act as fiscal agent for the Program and assist the Council in other administrative matters. Any funds that may be granted to the administering agency for programmatic purposes must be clearly derived from the State Plan objectives and agreed to by the Council.

Congress is also concerned that, since the administering agency frequently is in a supervisory relationship to Council staff, the possibility exists that subgrants may be awarded which are inconsistent with Council priorities. The Committee wishes to make it clear that the State Planning Council, comprised of public and private agencies and consumers, must be responsible for determining expenditure priorities under the Act and that Council staff must be free to carry out the Council's decisions.

"State Plan Consolidation" (Section 122)

From 1979–1981, twelve states participated in a Health and Human Services' Demonstration Project which encouraged states to consolidate, substitute and simplify state plans for federal/state human service programs. This project, and its evaluation, provided a demonstration of what would be permitted under Executive Order 12372.

The Department of Health and Human Services analysis of the Developmental Disabilities Program participation in this project made the following points:

> The planning requirements that are a part of the DD program go to the heart of this advocacy effort. Unlike most of the other federal programs, DD plans are developed by a separate body, the DD Council, that is stipulated by federal law and given formal responsibility, not merely an advisory role for plan content. The guidelines for the plan submission are extremely detailed; although they include assurances, they are program specific and require a detailed description of objec-

tives and services for this target population. The plan that is developed by the DD Council becomes a vehicle through which the group advocates for DD clients. The 1978 amendments to the DD statute reinforced the primary role of the Council and, at the same time, moved the plan submission from a yearly to a three-year schedule.

Regional DD staff have authority to review and approve regular state plans, provide technical assistance, and maintain close liaison with the states. Their involvement in the demonstration varied across the five states that included this program in their activities. The project appeared to be unclear to some of the regional staff. Some felt that the concept of a consolidation plan violated the spirit of the DD advocacy effort. If a state attempted to develop a process that revolved around State budget allocations, it was not clear how the independent responsibility of the DD Council would be met.

The different construction of the program—the DD Council and its advocacy focus—makes it somewhat different from other Federal efforts. Federal program officials were concerned that the state project staff have sufficient time and wherewithall to involve the Council in the various planning steps required."

In March, 1983, the National Association of Developmental Disabilities Councils did a follow-up study of those states which participated in this demonstration project. Their study revealed the following problems in consolidating the DD State Plan:

The DD plan was inappropriately consolidated with other programs due to happenstance of the placement of DD program within state government.

The essence of the DD program is negotiation with state government agencies and plan consolidation frequently interfered with, rather than enhanced, interagency negotiation and cooperation.

Simplification often reduced the DD program to a list of assurances which existed on paper to enable the state to received DD funds but which were, in fact, never intended for implementation.

The DD program, because of its statutory purposes, does not "mesh" well with the plans of direct service state agencies. Because of the broadness and scope of federal mandate, plan elements had little to do with the elements of other state plans done for other purposes.

In addition, the current DD State Plan Guidelines are optional, permitting states flexibility of design within the requirements of the statute.

The Committee Bill responds to these concerns by prohibiting the consolidation of the DD State Plan with any other State Plan unless the State Council and State administering agency agree to such consolidation in writing.

State Plan Assurances (Section 122(b)(1)(C))

Section 122(b)(1)(C) of the Committee Bill amends current law so that the State plan must assure that the state administering

agency will provide information to the State Planning Council as the Council may reasonably require. The State administering agency is also required to keep records and afford the Council access to those records. This addition to this provision was made in response to the July, 1983 Inspector General's Report which documented frequent communication problems between Planning Councils and administering agencies, especially concerning unobligated state grant funds. It is the Committee's intention that the State Councils have accurate and current information about the funds allocated under this section.

Council grant funds must, under both current law and the Committee Bill supplement and not supplant non federal funds. The Committee urges the Administration on Developmental Disabilities to assure that this provision is and continues to be adhered to. The Committee further intends that State Councils have the widest discretion in determining those persons or agencies within each Council's jurisdiction who can best assist in achieving goals outlined in the state plan.

The designated agency in which the Council exists should compete equally with other public and non-profit agencies for available Council grants. The Committee Bill includes a provision to further strengthen the Council's independence in awarding grants by providing that not more than 25 percent of Council grant funds may be awarded to the designated agency.

Priority Service Areas

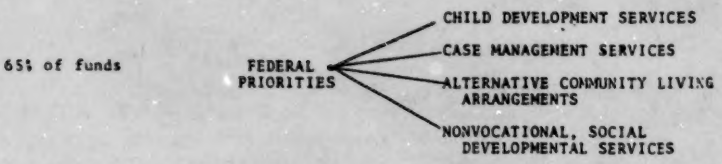
The Committee Bill requires "employment related activities" to be a priority in every state. States may choose a second priority—either alternative community living arrangement services or child development services. States may also choose an additional service area from those listed in section 102(11)(A)(ii) of the Committee bill for expenditure of non-priority funding, i.e., 35 percent of the State allotment.

The Committee bill requires states to consider data collected pursuant to section 618(b)(3) of PL 98–199 prior to developing the State plan. Section 618(b)(3) of PL 98–199 requires that State Special Education Agencies collect data on "the number of handicapped children and youth exiting the educational system each year through program completion or otherwise, by disability category and age and anticipated services for next year. This information about the needs of students leaving special education should provide the States with data which should be considered in choosing priority areas.

DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT

STATE PLANNING COUNCIL PRIORITIES

CURRENT LAW



AUTHORIZED: $45.4 Million

SENATE BILL 2573

AUTHORIZED: $54.5 Million

- One year phase-in of these priorities.
- When Appropriations exceed $60 Million for State Grants, the Councils may include all three as priorities
- Case management services has been subsumed within each priority

Participation of Mentally Ill Individuals

The Committee is aware of the uneven inclusion of the mentally ill in DD programs. Notwithstanding the eligibility of the developmentally mentally ill, participation of this group has been far from uniform. The Committee reasserts and clarifies that eligible mentally ill persons are entitled to share fully in the benefits and services of the Act in all its programs at the Federal and State levels.

Annual Survey Reports and Plans of Correction on Intermediate Care Facilities for the Mentally Retarded (Section 122(b)(5)(E))

Section 122(b)(5)(E) of the Committee Bill amends current law to require the state to provide assurances that the State Planning Council will be provided with copies of each annual survey report and plan of corrections for cited deficiencies for each Intermediate Care Facility for the Mentally Retarded (ICFMR) in the state within 30 days after the completion of each such report or plan.

The Committee intends that the State DD Council exercise an oversight role in reviewing these documents which detail conditions at ICFMR's and outline the ICFMR's plans to correct deficiencies. Because of the widespread documented deficiencies in

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ICFMR's, the Committee feels that it is appropriate for the State Councils to play a significant role in publicly monitoring the conditions in these institutions. It is hoped that the State DD Council will carefully review and analyze both the findings outlined in the documents and the adequacy of the documents themselves as quality control tools for ICFMR's. The Councils are encouraged to provide recommendations to public officials based on their ongoing review of these documents.

"Manpower Assessment" (Section 122(b)(6))

The Committee Bill requires that an assessment be done of the need for professionals and paraprofessionals in the field of Developmental Disabilities within two years of the date of enactment of this Bill. This assessment must be done by each State and submitted to the Secretary. The bill then mandates that this assessment be done every three succeeding years.

The current professional assessment provision requires states to "evaluate the skill levels of professionals and paraprofessionals providing services to people with developmental disabilities". Currently, the 1984-1986 State plan must provide an assurance that such assessments are being done. Unfortunately, there have been several obstacles encountered by states in their implementation of these provisions. Many professional groups have their own certification and/or licensing requirements (i.e., social worker, psychologist) and many states have statutes requiring licensure.

The Committee intends that the assessment of manpower needs be substituted for the professional assessment provision. Such manpower assessments could support the activities undertaken in priority service areas and enable training, service and support projects to be better coordinated.

"State Planning Council Membership" (Section 124(A)(1))

The Committee Bill amends the State Planning Council membership to include members from the agencies that administer the Rehabilitation Act of 1973, as amended; the Education of the Handicapped Act, Title XIX of the Social Security Act, the State Protection and Advocacy Program and each University Affiliated Facility and Satellite center in the State. The Committee is aware that in many states these representatives already serve on the Councils, however, the Committee feels such representation is necessary in all states.

Authorization and Minimum Allotments

The Committee recommends that the authorization level for the State grant program be increased 20 percent in FY 1985 to enable States to implement the new provisions of the Act, especially employment related services, the new priority service area required in all State grant programs. The Committee intends that increased funds be used to focus all aspects of State council planning and service activity on initiatives that are designed to increase and support the independence, productivity and integration into the community of persons with developmental disabilities. The proposed in-

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creases for FY 1986 and FY 1987 represent a 7 percent increase each year.

The minimum allotments under the State grant program are recommended for increases from $250,000 to $300,000 for the States (including Puerto Rico and the District of Columbia). This minimum allotment has not been increased since FY 1978 and the Committee believes that the effects of inflation and the additional responsibilities under the 1984 Act justify this increase. The Committee recommends that the annual minimum allotment to the territories be increased from $100,000 to $135,000. The territories are currently receiving $135,000.

Estimated State Allotments

The following table shows the amount of allotments for the State grants under the Committee Bill.

TABLE 1.—ESTIMATED DEVELOPMENTAL DISABILITIES FORMULA ALLOTMENTS, BASIC STATE GRANTS, AS REPORTED IN S. 2573, MAY 9, 1984

[All estimates are in thousands]

State	Fiscal year—			
	Actual 1984 appropriation $43.75 million [1]	1985 estimated allotments $54.5 million authorization [2]	1986 estimated allotments $58.3 million authorization [2]	1987 estimated allotments $62.4 million authorization [2]
Alabama	$895	$1,122	$1,208	$1,301
Alaska	250	300	300	300
Arizona	452	589	623	659
Arkansas	516	646	696	749
California	3,406	4,258	4,585	4,937
Colorado	414	538	568	601
Connecticut	469	587	632	681
Delaware	250	300	300	300
District of Columbia	250	300	300	300
Florida	1,646	2,062	2,220	2,390
Georgia	1,096	1,373	1,478	1,592
Hawaii	250	300	300	300
Idaho	250	300	300	300
Illinois	1,782	2,232	2,404	2,589
Indiana	1,013	1,270	1,367	1,472
Iowa	534	669	720	775
Kansas	389	487	525	565
Kentucky	840	1,052	1,133	1,220
Louisiana	840	1,052	1,133	1,220
Maine	251	305	328	353
Maryland	638	799	860	926
Massachusetts	950	1,190	1,281	1,380
Michigan	1,606	2,011	2,165	2,332
Minnesota	694	870	936	1,008
Mississippi	627	785	845	910
Missouri	931	1,166	1,255	1,352
Montana	250	300	300	300
Nebraska	282	354	381	410
Nevada	250	300	300	300
New Hampshire	250	300	300	300
New Jersey	1,116	1,398	1,505	1,621
New Mexico	270	333	351	370
New York	2,977	3,729	4,015	4,325
North Carolina	1,264	1,583	1,705	1,836
North Dakota	250	300	300	300
Ohio	1,950	2,443	2,631	2,833
Oklahoma	540	677	728	784

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TABLE 1.—ESTIMATED DEVELOPMENTAL DISABILITIES FORMULA ALLOTMENTS, BASIC STATE GRANTS, AS REPORTED IN S. 2573, MAY 9, 1984—Continued

[All estimates are in thousands]

State	Fiscal year—			
	Actual 1984 appropriation $43.75 million [1]	1985 estimated allotments $54.5 million authorization [2]	1986 estimated allotments $58.3 million authorization [2]	1987 estimated allotments $62.4 million authorization [2]
Oregon	437	547	589	635
Pennsylvania	2,203	2,759	2,971	3,200
Puerto Rico	1,469	1,840	1,982	2,134
Rhode Island	250	300	300	300
South Carolina	698	874	941	1,014
South Dakota	250	300	300	300
Tennessee	992	1,242	1,338	1,440
Texas	2,361	2,957	3,184	3,428
Utah	303	376	397	420
Vermont	250	300	300	300
Virginia	941	1,179	1,269	1,367
Washington	629	788	849	914
West Virginia	506	633	682	735
Wisconsin	863	1,081	1,164	1,253
Wyoming	250	300	300	300
American Samoa	135	135	135	135
Guam	135	135	135	135
Northern Marianas	135	135	135	135
Trust territories	171	204	216	229
Virgin Islands	135	135	135	135
U.S. total	43,750	54,500	58,300	62,400

[1] Current law requires a minimum of $250 thousand or what each State, Puerto Rico or the District of Columbia received in FY 78, whichever is higher. Territories are required to receive a minimum of $120 thousand, but are currently receiving $135 thousand.

[2] If the appropriation exceeds $45 million, S. 2573 would require a minimum of $300 thousand or what each State, Puerto Rico or the District of Columbia received in FY 84, whichever is higher. Territories are required to receive a minimum of $135 thousand.

Note.—Table prepared by CRS. Estimates are subject to limitations of the data and the assumptions used to make the estimates. All figures are estimates will change with the use of different data or assumptions.

Source: All estimates are based upon data obtained from the Department of Health and Human Services, Administration on Developmental Disabilities. Data employed in the estimates were used in determining the Department's FY 1984 allotments.

Part C—Protection and advocacy systems

The Committee views State Protection and Advocacy Systems (P&A's) to be of critical importance in an expanding effort by the Congress to assure disabled persons both protection of their rights under law and full access to federally funded programs. Together with the Parent Training Programs authorized under Section 631 of PL 98-199 and the Client Assistance Programs under Section 112 of PL 98-221, the P&A's provide an invaluable local and thus available resource to developmentally disabled people which is independent, yet knowledgeable of service providers. The Committee notes favorably the testimony provided by Dr. Jean Elder, Commissioner of the Administration on Developmental Disabilities that ". . . In FY 1982, 41 State P&A systems served more that 41,000 persons. Ninety-eight percent of the cases were resolved through use of mediation or administrative procedures. Less than 2 percent involved litigation."

The Committee commends the emphasis by P&A's on mediation and/or administrative remedies while at the same time recognizes that there will undoubtedly be future instances where litigation is the necessary alternative to protect disabled persons' rights.

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Authorized Funding

Testimony presented by Ms. Nancy Mattox, Director of the West Virginia Advocates for the Developmentally Disabled, stated ". . . it is impossible to expect Protection and Advocacy agencies to maintain competent staff and sufficient resources when our only yearly guaranteed funding in many states is $50,000 per year." The Committee agrees and the Committee Bill increases minimum annual state allotments for P&A's to $100,000; territories to $60,000 when appropriations exceed $9.5 million in any year.

The Committee also carefully considered the testimony of the consortium for Citizens with Developmental Disabilities that "There has been no real dollar growth in the program (i.e. P&A's) since its creation even though the demand for its services—has increased greatly." Providing the resources necessary to match the mandate of the P&A systems is essential if the job is to be done. Accordingly, the Committee Bill contains authorized P&A funding of $15.0, $16.1 and $17.2 million for the fiscal years 1985, 1986, and 1987, respectively.

General Authority

The Committee intends that "authority to pursue legal, administrative and other appropriate remedies" as contained in Section 141(a)(2)(A) includes monitoring, evaluating and commenting upon the development and implementation of Federal, State, and Local laws, regulations, state plans, budgets, policies, programs, hearings, levies and community actions which will affect developmentally disabled persons.

The Committee agrees with the testimony of Dr. Elder that authority for P&A's to provide information and referral activities is necessary and appropriate. The Committee Bill contains such authority.

Redesignation

The Committee is also concerned that any change in P&A designation within any jurisdiction be only for good cause. Such good cause does not, in the Committee's view, mean aggressiveness—specifically litigation against any agency of state or local government—in the pursuit of the designee's mandate to protect persons with developmental disabilities. S. 2573 contains a provision that redesignation be only for good cause. The Committee urges the Administration on Developmental Disabilities to promulgate regulations and to carefully evaluate any redesignation request to assure that there is both good cause for any redesignation request and that notice of such request has been provided to clients and client groups within the jurisdictions of the appointing authority prior to the request being submitted to the Administration on Developmental Disabilities.

Administrative Costs

The Committee also intends that to the greatest extent possible, federal funds for Protection and Advocacy Systems be utilized to provide services to clients and thus the Committee Bill provider

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that no more than 5 percent of any P&A state allotment may be used for State administrative and monitoring costs.

Protection of Institutionalized Citizens

Finally, the Committee believes additional authority needs to be provided Protection and Advocacy Systems to assist them in adequately protecting the rights of institutionalized developmentally disabled citizens. Information contained in annual Intermediate Care Facilities for the Mentally Retarded (ICF/MR) Surveys on the physical and programmatic adequacy of federally funded institutions within any jurisdiction must be available to the P&A agency in that jurisdiction together with a copy of any correction plans proposed to remedy identified deficiencies. Under the provisions of the Committee Bill, Protection and Advocacy Agencies will be provided copies of ICF/MR Surveys and correction plans and will also be able to gain access to the records of clients in institutions under certain circumstances. States who use blanket public guardianship for all residents of an institution must allow access to records by the state P&A system. The deadline of October 1, 1986 is to provide states sufficient time to effect such changes in state law as may be necessary to comply with this provision in the Committee Bill.

Estimated State Allotments

The following table shows the amount of allotments to states for the Protection and Advocacy Systems under the Committee Bill.

TABLE 2.—ESTIMATED DEVELOPMENTAL DISABILITIES FORMULA ALLOTMENTS, PROTECTION AND ADVOCACY, AS REPORTED IN S. 2573, MAY 9, 1984

[All estimates are in thousands]

State	Fiscal year—			
	Actual 1984 appropriation $8.4 million [1]	1985 estimated allotments $15.0 million authorization [2]	1986 estimated allotments $15.1 million authorization [2]	1987 estimated allotments $17.2 million authorization [2]
Alabama	$171	$301	$326	$351
Alaska	50	100	100	100
Arizona	86	152	165	177
Arkansas	93	173	188	202
California	650	1,142	1,237	1,332
Colorado	78	141	150	159
Connecticut	89	157	171	184
Delaware	50	100	100	100
District of Columbia	50	100	100	100
Florida	314	553	599	645
Georgia	209	368	399	430
Hawaii	50	100	100	100
Idaho	50	100	100	100
Illinois	340	599	649	698
Indiana	193	340	369	397
Iowa	102	179	194	209
Kansas	74	131	142	152
Kentucky	160	282	306	329
Louisiana	160	282	306	329
Maine	50	100	100	100
Maryland	122	214	232	250
Massachusetts	181	319	346	372
Michigan	306	539	584	629
Minnesota	132	233	253	272

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TABLE 2.—ESTIMATED DEVELOPMENTAL DISABILITIES FORMULA ALLOTMENTS, PROTECTION AND ADVOCACY, AS REPORTED IN S. 2573, MAY 9, 1984—Continued

[All estimates are in thousands]

State	Fiscal year—			
	Actual 1984 appropriation $8.4 million [1]	1985 estimated allotments $15.0 million authorization [2]	1986 estimated allotments $16.1 million authorization [2]	1987 estimated allotments $17.2 million authorization [2]
Mississippi	120	210	228	246
Missouri	178	313	339	365
Montana	50	100	100	100
Nebraska	54	100	103	111
Nevada	50	100	100	100
New Hampshire	50	100	100	100
New Jersey	213	375	406	437
New Mexico	52	100	101	106
New York	568	1,000	1,084	1,167
North Carolina	241	424	460	495
North Dakota	50	100	100	100
Ohio	372	655	710	764
Oklahoma	103	181	197	212
Oregon	83	147	159	171
Pennsylvania	420	740	802	863
Puerto Rico	280	493	535	576
Rhode Island	50	100	100	100
South Carolina	133	234	254	274
South Dakota	50	100	100	100
Tennessee	189	333	361	389
Texas	451	793	859	925
Utah	59	107	113	119
Vermont	50	100	100	100
Virginia	180	316	343	369
Washington	120	211	229	247
West Virginia	96	170	184	198
Wisconsin	165	290	314	338
Wyoming	50	100	100	100
American Somoa	30	60	60	60
Guam	30	60	60	60
Northern Marianas	30	60	60	60
Trust territories	34	63	66	70
Virgin Islands	30	60	60	60
U.S. total	$8,400	15,000	16,100	17,200

[1] Current law requires a minimum of $50 thousand or what each State, Puerto Rico or the District of Columbia received in Fy 1978, whichever is higher. There is no statutory minimum for territories but territories currently receive a minimum of $30 thousand.

[2] S. 2573 requires a minimum of $100 thousand or what each State, Puerto Rico or the District of Columbia received in FY 1984, whichever is higher. If the appropriation exceeds $9.5 million territories would have a required minimum of $60 thousand.

Note.—Table prepared by CRS. Estimates are subject to limitations of the data and the assumptions used to make the estimates. All figures are estimates and will change with the use of different data or assumptions.

Source: All estimates are based upon data obtained from the Department of Health & Human Services. Administration on Developmental Disabilities. Data employed in the estimates were used in determing the Department's FY 1984 allotments.

Part D—University affiliated facilities

Legislative History

The original Mental Retardation Facilities Construction Act of 1963, (Part B of Title I of PL 88-164) authorized Federal funds for the construction of facilities for training personnel and developing service programs for the developmentally disabled in university or medical settings. Since 1968, however, no new constuction money has been authorized.

With the enactment of the first Developmental Disabilities Legislation in 1970, Part B became a manpower component of the program. For the first time, specific Secretarial authority was included for "administration and operation" (core support grants) for University Affiliated Facilities (UAF's). The Act was thus amended in 1970 to provide noncategorical, operational funding for interdisciplinary training and demonstration projects.

In 1975, Congress established the UAF Satellite centers as outreach programs. Satellite centers were to be located in States which did not have a UAF. Such Satellite centers would serve as a resource to other clinics or programs within the state while themselves receiving back-up support from their host UAF. This interconnecting network of UAF's and Satellites was to provide a communication and support system which would be able to disseminate nationwide knowledge to even the most isolated program or clinic.

During the 1960's, the child population was at its peak. Since initial detection, evaluation and treatment were recognized as important interventions, the first two dozen UAF's placed greatest emphasis on children. Now those same "baby boom" children are young adults in need of adult services. At the same time medical and technological advancements have enabled many handicapped newborns to survive who might not have survived earlier. Thus the UAF network is faced with the challenge of maintaining the already developed emphasis for children while at the same time responding to the increasing need for youth and adult services.

General Authority

In response to these needs the Committee has retained the provisions of the current UAF definition of (1) providing interdisciplinary training of personnel; (2) demonstrating exemplary services and providing technical assistance; (3) disseminating findings related to the provision of services to persons with developmental disabilities and (4) providing researchers and government agencies sponsoring related research with information on the needs for additional service related research. Further, the Committee Bill has expanded the UAF's mission so that its activities have an increased focus on independence, productivity and integration into the community of persons with developmental disabilities. The Committee Bill also amends the Act to allow Satellite Centers to provide the same services as a UAF when appropriate and necessary.

Expansion of the UAF/Satellite Network

As a result of the structure of the 1978 amendments, no new feasibility studies, and hence no new satellites, have been possible in recent years, although there are still large areas without effective access to UAF services and training. The Committee has recognized a need for the establishment of additional UAF's and Satellite Centers. The Committee intends that additional Satellite centers be established, with the Administration on Developmental Disabilities (ADD) taking the initiative in setting priorities. New Satellites should be created during the next several years, with these new Satellites planned for clearly unserved areas.

To accomplish this, the Committee recommends that ADD set aside small amounts (maximum $25,000) for feasibility studies. These studies should be time limited and require significant agency and State/local/university participation. Awards should be made based on geographic and programmatic considerations. Collaboration of the State Planning Council and public and private service agencies is essential. Active participation by the State Protection and Advocacy agency is strongly recommended. In addition, prospective sponsors should develop a working relationship with one established UAF to serve as a technical assistant and host university. The Committee does not intend, however, that the above in any way impede prompt implementation of recommendations contained in the UAF Satellite feasibility studies which were requested by the Congress in 1983.

Authorizations and Allotments

A comparison of appropriations for University Affiliated Facility Funding from 1978 to 1984, reveals a debilitating erosion in purchasing power. While the actual appropriation level remained about the same, the constant dollar value decline by 29.4 percent. The Committee Bill includes a 20 percent increase in the UAF authorization level for FY 1985. The Committee intends that most of the funding increase be used to establish new University Affiliated Facilities and Satellite centers and to make grants to existing Satellite centers that have the capacity to become University Affiliated Facilities. The Committee Bill does, however, provide that the prior funding level of $7.8 million for existing UAF's and Satellites be reached before any new UAF's or satellites are established. The proposed increase for FY 1986 and FY 1987 is 7 percent each year.

The Committee also notes that many UAF's have been receiving the same minimum allotment of $150,000 since 1978. While no change has been included in the Committee Bill relative to minimum allotments the Committee encourages the Administration on Developmental Disabilities, to substantially increase core grant awards to UAF's presently receiving minimum allotments and which have demonstrated superior results in achieving their goals. The Committee also recommends a minimum of $75,000 for any new UAF satellite created in FY 1985 or thereafter.

Part E—Special projects

The Committee wishes to emphasize that special project grants are to be awarded to applicants providing assurances that the planned demonstration projects are designed to increase and support the independence, productivity and integration into the community of persons with developmental disabilities. These funds are intended to be used to develop innovative methods to accomplish the above stated goals and results of the projects are to be disseminated to State Planning Councils nationwide. In addition, persons served in special projects are to have their rights protected in conformance with section 110 of this Act.

Under no conditions is the Secretary to consolidate grant-making authority for special projects for persons with developmentally disabilities with any other grant or contract authority that the Secre-

tary may have. These funds, authorized and appropriated for persons with developmental disabilities, are to be used for the benefit of those persons only.

Study on Intermediate Care Facilities for the Mentally Retarded (ICFMR's) (Section 163)

The Committee Bill requires that a task force be established which represents the key federal agencies that administer programs for developmentally disabled persons. The task force is to assist the Secretary of Health and Human Services in preparing a report for Congress. The report is to provide recommendations for improving services for mentally retarded and developmentally disabled persons provided under Title XIX of the Social Security Act. The recommendations are to focus on how these services can be improved to result in increased independence, productivity, and intergration into the community for persons served by Title XIX funds. Seventy-five thousand dollars is targeted for this study.

Members of the staff of the Senate Subcommittee on the Handicapped have during the past twelve months visited ICFMR's in several states, and met with state directors of mental retardation programs, parents and professionals concerned about the development and maintenance of appropriate residential programs.

There was general agreement that a continuum of residential care does not exist to meet the individual needs of persons with developmental disabilities. In each of the facilities staff visited, the superintendent stated that there were mentally retarded individuals in the institutions who did not belong there. The reason most frequently given for this situation was the lack of appropriate community alternatives. Based on extensive interviews conducted with representatives of institutional superintendents and staff, major barriers to change were identified including:

> Federal policy and regulation have not kept pace with changing profeasional knowledge and practice as to the most beneficial means of service delivery to developmentally disabled persons.
>
> Under Title XIX the Federal Government spent over 2 billion dollars in FY 1983 on large congregate care facilities for mentally retarded children and adults, as opposed to 210 million dollars (in FY 1983) for community based services.
>
> Federal support for institutions through the ICFMR program, which has been in existence for over ten years, continues. This extensive support for institutions is inconsistent with the more recent Congressional mandate of Public Law 94-142 which requires a free appropriate public education for handicapped children in "the least restrictive environment."

The Federal response in a limited number of situtations to the discovery of the failure to provide active treatment in ICFMR's has been to disallow Federal financial participation. It is the expectation of this Committee that the task force reveiw recent audit assessments conducted by the Office of the Inspector General concerning the issue of active treatment in order to gain a further understanding of the scope of the problem.

It is the Committee's intent that the task force review documentation of problems in ICFMR's (such as abuse, neglect, inappropriate placement and lack of active treatment). Furthermore, the Committee intends for the task force to review the best practices that exist in community settings for developmentally disabled persons.

In making recommendations for improving services, the task force should consider the following: 1) strategies to create Federal incentives for community residential development 2) the adoption of the least restrictive environment principle 3) expansion of the community waiver option and 4) the provision to States of increased flexibility in defining eligible services for Federal financial participation. The Committee does not intend to limit the task force's consideration to only the four areas listed above.

Authorizations

The Committee recommends a 23 percent increase in the authorization level for FY 1985 for the special projects program. Special demonstration projects are needed to assist States in providing services which support and maintain independence, productivity and community integration of persons with developmental disabilities. In addition, special projects funds are proposed for the provision of technical assistance to expand and improve protection advocacy services in the States.

IV. Budget Estimate

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 2573.
2. Bill title: The Developmental Disabilities Act of 1984.
3. Bill status: As ordered reported from the Senate Committee on Labor and Human Resources on May 9, 1984.
4. Bill purpose: This bill would revise and extend programs for persons with developmental disabilities. This bill is subject to subsequent appropriations action.
5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1985	1986	1987	1988	1989
Authorization level:					
Allotments to States for planning and service	54.5	58.3	62.4	.....	.....
Protection and rights for developmental disabled	15.0	16.1	17.2	.....	.....
Grants to university facilities for administration and operation	9.4	10.1	10.8	.....	.....
Special project grants and study on intermediate care	3.2	3.7	4.5	.....	.....
Total authorization level	82.1	88.2	94.4	.....	.....
Total estimated outlays	48.5	77.5	91.1	38.1	9.4

The cost of this bill falls in function 500.

Basis of Estimate: All authorization levels are specified in the bill. The authorized amount is assumed to be fully appropriated at the beginning of each fiscal year. Outlays are estimated using

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spendout rates computed by CBO on the basis of appropriate recent program data.

6. Estimated cost to State and local government: If fully funded, in 1985 the state matching requirements for grants under the bill would be $27 million, almost double the 1984 level. The non-federal share of cost of any project may be provided in kind.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Marianne Degan.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

V. Tabulation of Votes Cast in Committee

The motion to favorably report the Bill to the Senate was passed unanimously by voice of the Committee.

VI. Regulatory Impact Statement

The Committee has determined that there will be minimal increase in regulatory burden imposed by this bill. While new regulations will need to be promulgated to reflect the new provisions in the Bill, those regulations build on existing regulations.

VII. Change in Existing Law

In compliance with rule XXVI paragraph 12 of the Standard Rule of the Senate, the following provides a print of the existing statute (in roman print) and the Committee Bill (in italic). Also provided is a chart indicating each section of the Committee Bill with the comparable section of current law.

[TITLE I—SERVICES AND FACILITIES FOR THE MENTALLY RETARDED AND PERSONS WITH OTHER DEVELOPMENTAL DISABILITIES [1]

[Part A—General Provisions

[short title

[Sec. 100. This title may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act".

[findings and purposes

[Sec. 101. (a) The congress finds that—

[(1) there are more than two million persons with developmental disabilities in the United States;

[(2) individuals with disabilities occurring during their developmental period are more vulnerable and less able to reach an independent level of existence than other handicapped individuals who generally have had a normal developmental period on which to draw during the rehabilitation process;

[1] Title I of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (P.L. 88-164).

[(3) persons with developmental disabilities often require specialized lifelong services to be provided by many agencies in a coordinated manner in order to meet the persons' needs;

[(4) general service agencies and agencies providing specialized services to disabled persons tend to overlook or exclude persons with developmental disabilities in their planning and delivery of services; and

[(5) it is in the national interest to strengthen specific programs, especially programs that reduce or eliminate the need for institutional care, to meet the needs of persons with developmental disabilities.

[(b)(1) It is the overall purpose of this title to assist States to assure that persons with developmental disabilities receive the care, treatment, and other services necessary to enable them to achieve their maximum potential through a system which coordinates, monitors, plans, and evaluates those services and which insures the protection of the legal and human rights of persons with developmental disabilities.

[(2) The specific purposes of this title are—

[(A) to assist in the provisions of comprehensive services to persons with developmental disabilities, with priority to those persons whose needs cannot be covered or otherwise met under the Education for All Handicapped Children Act, the Rehabilitation Act of 1973, or other health, education, or welfare programs;

[(B) to assist States in appropriate planning activities;

[(C) to make grants to States and public and private, nonprofit agencies to establish model programs, to demonstrate innovative habilitation techniques, and to train professional and paraprofessional personnel with respect to providing services to persons with developmental disabilities;

[(D) to make grants to university affiliated facilities to assist them in administering and operating demonstration facilities for the provision of services to persons with developmental disabilities, and interdisciplinary training programs for personnel needed to provide specialized services for these persons; and

[(E) to make grants to support a system in each State to protect the legal and human rights of all persons with developmental disabilities.

[DEFINITIONS

[SEC. 102. For purposes of this title:

[(1) The term "State" includes Puerto Rico, Guam, the Northern Mariana Islands, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the District of Columbia

[(2) The term "facility for persons with developmental disabilities" means a facility, or a specified portion of a facility, designed primarily for the delivery of one or more services to persons with one or more developmental disabilities.

[(3) The terms "nonprofit facility for persons with developmental disabilities" and "nonprofit private institution of higher learning" mean, respectively, a facility for persons with developmental disabilities and an institution of higher learning which are

owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and the term "nonprofit private agency or organization" means an agency or organization which is such a corporation or association or which is owned and operated by one or more of such corporations or associations.

[(4) The term "construction" includes construction of new buildings, acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical transportation facilities); including architect's fees, but excluding the cost of offsite improvements and the cost of the acquisition of land.

[(5) The term "cost of construction" means the amount found by the Secretary to be necessary for the construction of a project.

[(6) The term "title", when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than fifty years undisturbed use and possession for the purposes of construction and operation of the project.

[(7) The term "developmental disability" means a severe, chronic disability of a person which—

[(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

[(B) is manifested before the person attains age twenty-two;

[(C) is likely to continue indefinitely;

[(D) results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity of independent living, and (vii) economic self-sufficiency; and

[(E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

[(8)(A) The term "services for persons with developmental disabilities" means priority services (as defined in subparagraph (B)), and any other specialized services or special adaptations of generic services for persons with developmental disabilities, including in these services the diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, training, education, sheltered employment, recreation, counseling of the individual with such disability and of his family, protective and other social and sociolegal services, information and referral services, follow-along services, and transportation services necessary to assure delivery of services to persons with developmental disabilities.

[(B) The term "priority services" means case management services (as defined in subparagraph (C)), child development services (as defined in subparagraph (D)), alternative community living arrangement services (as defined in subparagraph (E)), and nonvocational social-developmental services (as defined in subparagraph (F)).

[(C) The term "case management services" means such services to persons with developmental disabilities as will assist them in gaining access to needed social, medical, educational, and other services; and such term includes—

[(i) follow-along services which ensure, through a continuing relationship, lifelong if necessary, between an agency or provider and a person with a developmental disability and the person's immediate relatives or guardians, that the changing needs of the person and the family are recognized and appropriately met; and

[(ii) coordination services which provide to persons with developmental disabilities support, access to (and coordination of) other services, information on programs and services, and monitoring of the person's progress.

[(D) The term "child development services" means such services as will assist in the prevention, identification, and alleviation of developmental disabilities in children, and includes (i) early intervention services, (ii) counseling and training of parents, (iii) early identification of developmental disabilities, and (iv) diagnosis and evaluation of such developmental disabilities.

[(E) The term "alternative community living arrangement services" means such services as will assist persons with developmental disabilities in maintaining suitable residential arrangements in the community, and includes in-house services (such as personal aides and attendants and other domestic assistance and supportive services) family support services, foster care services, group living services, respite care, and staff training, placement, and maintenance services.

[(F) The term "nonvocational social-developmental services" means such services as will assist persons with developmental disabilities in performing daily living and work activities.

[(9) The term "satellite center" means an entity which is affiliated with one or more university affiliated facilities and which functions as a community or regional extension of such university affiliated facility or facilities in the delivery of services to persons with developmental disabilities, and their families, who reside in geographical areas where adequate services are not otherwise available.

[(10) The term "university afiliated facility" means a public or nonprofit facility which is associated with, or is an integral part of, a college or university and which provides for at least the following activities:

[(A) Interdisciplinary training for personnel concerned with developmental disabilities.

[(B) Demonstration of the provision of exemplary services relating to persons with developmental disabilities.

[(C)(i) Dissemination of findings relating to the provision of services to persons with developmental disabilities, and (ii) providing researchers and government agencies sponsoring service-related research with information on the needs for further service-related research.

[(11) The term "Secretary" means the Secretary of Health, Education, and Welfare.

[(12) The term "State Planning Council" means a State Planning Council established under section 137.

[FEDERAL SHARE

[SEC. 103. (a) The Federal share of any project to be provided through grants under part B and allotments under part C may not exceed 75 per centum of the necessary cost thereof as determined by the Secretary, except that if the project is located in an urban or rural poverty area, the Federal share may not exceed 90 per centum of the project's necessary costs as so determined.

[(b) The non-Federal share of the cost of any project assisted by a grant or allotment under this title may be provided in kind.

[(c) For the purpose of determining the Federal share with respect to any project, expenditures on that project by a political subdivision of a State or by a nonprofit private entity shall, subject to such limitations and conditions the Secretary may by regulation prescribe, be deemed to be expenditures by such State in the case of a project under part C or by a university-affiliated facility or a satellite center, as the case may be, in the case of a project assisted under part B.

[STATE CONTROL OF OPERATIONS

[SEC. 104. Except as otherwise specifically provided, nothing in this title shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility for persons with developmental disabilities with respect to which any funds have been or may be expended under this title.

[RECORDS AND AUDIT

[SEC. 105. (a) Each recipient of assistance under this title shall keep such records as the Secretary shall prescribe, including (1) records which fully disclose (A) the amount and disposition by such recipient of the proceeds of such assistance, (B) the total cost of the project or undertaking in connection with which such assistance is given or used, and (C) the amount of that portion of the cost of the project or undertaking supplied by other sources, and (2) such other records as will facilitate an effective audit.

[(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of assistance under this title that are pertinent to such assistance.

[EMPLOYMENT OF HANDICAPPED INDIVIDUALS

[SEC. 106. As a condition of providing assistance under this title, the Secretary shall require that each recipient of such assistance take affirmative action to employ and advance in employment qualified handicapped individuals on the same terms and conditions required with respect to the employment of such individuals by the provisions of the Rehabilitation Act of 1973 which govern

employment (1) by State rehabilitation agencies and rehabilitation facilities, and (2) under Federal contracts and subcontracts.

[RECOVERY

[SEC. 107. If any facility with respect to which funds have been paid under part B or C shall, at any time within twenty years after the completion of construction—

[(1) be sold or transferred to any person, agency, or organization which is not a public or nonprofit private entity, or

[(2) cease to be a public or other nonprofit facility for persons with developmental disabilities,

the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility which has ceased to be a public or other nonprofit facility for persons with developmental disabilities, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction of such project or projects. Such right of recovery shall not constitute a lien upon such facility prior to judgment. The Secretary, in accordance with regulations prescribed by him, may, upon finding good cause therefor, release the applicant or other owner from the obligation to continue such facility as a public or other nonprofit facility for persons with developmental disabilities.

[NATIONAL ADVISORY COUNCIL ON SERVICES AND FACILITIES FOR THE DEVELOPMENTALLY DISABLED

[SEC. 108.[1]

[REGULATIONS

[SEC. 109. The Secretary, not later than 180 days after the date of enactment of any Act amending the provisions of this title, shall promulgate such regulations as may be required for the implementation of such amendments.

[SEC. 110.[2]

[RIGHTS OF THE DEVELOPMENTALLY DISABLED

[SEC. 111. Congress makes the following findings respecting the rights of persons with developmental disabilities:

[(1) Persons with developmental disabilities have a right to appropriate treatment, services, and habilitation for such disabilities.

[(2) The treatment, services, and habilitation for a person with developmental disabilities should be designed to maximize the developmental potential of the person and should be provided in the setting that is least restrictive of the person's personal liberty.

[1] Section 108 repealed by Public Law 95-602.
[2] Section 110 repealed by Public Law 97-35.

[(3) The Federal Government and the States both have an obligation to assure that public funds are not provided to any institutional or other residential program for persons with developmental disabilities that—

[(A) does not provide treatment, services, and habilitation which is appropriate to the needs of such persons; or

[(B) does not meet the following minimum standards:

[(i) Provision of a nourishing, well-balanced daily diet to the persons with developmental disabilities being served by the program.

[(ii) Provision to such persons of appropriate and sufficient medical and dental services.

[(iii) Prohibition of the use of physical restraint on such persons unless absolutely necessary and prohibition of the use of such restraint as a punishment or as a substitute for a habilitation program.

[(iv) Prohibition on the excessive use of chemical restraints on such persons and the use of such restraints as punishment or as a substitute for a habilitation program or in quantities that interfere with services, treatment, or habilitation for such persons.

[(v) Permission for close relatives of such persons to visit them at reasonable hours without prior notice.

[(vi) Compliance with adequate fire and safety standards as may be promulgated by the Secretary.

[(4) All programs for persons with developmental disabilities should meet standards which are designed to assure the most favorable possible outcome for those served, and—

[(A) in the case of residential programs serving persons in need of comprehensive health-related, habilitative, or rehabilitative services, which are at least equivalent to those standards applicable to intermediate care facilities for the mentally retarded promulgated in regulations of the Secretary on January 17, 1974 (39 Fed. Reg. pt. II), as appropriate when taking into account the size of the institutions and the sevice delivery arrangements of the facilities of the programs;

[(B) in the case of other residential programs for persons with developmental disabilities, which assure that care is appropriate to the needs of the persons being served by such programs, assure that the persons admitted to facilities of such programs are persons whose needs can be met through services provided by such facilities, and assure that the facilities under such programs provide for the humane care of the residents of the facilities, are sanitary, and protect their rights; and

[(C) in the case of nonresidential programs, which assure the care provided by such program is appropriate to the persons served by the programs.

The rights of persons with developmental disabilities described in findings made in this section are in addition to any constitutional or other rights otherwise afforded to all persons.

[HABILITATION PLANS

[SEC. 112. (a) The Secretary shall require as a condition to a State's receiving an allotment under part C that the State provide the Secretary satisfactory assurances that each program (including programs of any agency, facility, or project) which receives funds from the State's allotment under such part (1) has in effect for each developmentally disabled person who receives services from or under the program a habilitation plan meeting the requirements of subsection (b), and (2) provides for an annual review, in accordance with subsection (c), of each such plan.

[(b) A habilitation plan for a person with developmental disabilities shall meet the following requirements:

[(1) The plan shall be in writing.

[(2) The plan shall be developed jointly by (A) a representative or representatives of the program primarily responsible for delivering or coordinating the delivery of services to the person for whom the plan is established, (B) such person, and (C) where appropriate, such person's parents or guardian or other representative.

[(3) The plan shall contain a statement of the long-term habilitation goals for the person and the intermediate habilitation objectives relating to the attainments of such goals. Such objectives shall be stated specifically and in sequence and shall be expressed in behavioral or other terms that provide measurable indices of progress. The plan shall (A) describe how the objectives will be achieved and the barriers that might interfere with the achievement of them, (B) state an objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved, and (C) provide for a program coordinator who will be responsible for the implementation of the plan.

[(4) The plan shall contain a statement (in readily understandable form) of specific habilitation services to be provided, shall identify each agency which will deliver such services, shall describe the personnel (and their qualifications) necessary for the provision of such services, and shall specify the date of the initiation of each service to be provided and the anticipated duration of each such service.

[(5) The plan shall specify the role and objectives of all parties to the implementation of the plan.

[(c) Each habilitation plan shall be reviewed at least annually by the agency primarily responsible for the delivery of services to the person for whom the plan was established or responsible for the coordination of the delivery of services to such person. In the course of the review, such person and the person's parents or guardian or other representative shall be given an opportunity to review such plan and to participate in its revision.

[PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

[SEC. 113. (a) In order for a state to receive an allotment under part c, (1) the state must have in effect a system to protect and advocate the rights of persons with developmental disabilities, (2) such system must (a) have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such persons who are receiving treatment, services, or habilitation within the state, (b) not be administered by the state planning council, and (c) be independent of any agency which provides treatment, services, or habilitation to persons with developmental disabilities, and (3) the state must submit to the secretary in a form prescribed by the secretary in regulations (a) a report, not less often than once every three years, describing the system, and (b) an annual report describing the activities carried out under the system and any changes made in the system during the previous year.

[(b)(1)(A) To assist States in meeting the requirements of subsection (a), the Secretary shall allot to the States the sums appropriated under paragraph (2). Allotments and reallotments of such sums shall be made on the same basis as the allotments and reallotments are made under the first sentence of subsections (a)(1) and (d) of section 132, except that no State (other than Guam, the Northern Mariana Islands, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) in any fiscal year shall be allotted an amount under this subparagraph which is less than the greater of $50,000 or the amount of the allotment to the State under this paragraph for the previous fiscal year.

[(B) Notwithstanding subparagraph (A), if the aggregate of the amounts of the allotments for grants to be made in accordance with such subparagraph for any fiscal year exceeds the total of the amounts appropriate for such allotments under paragraph (2), the amount of a State's allotment for such fiscal year shall bear the same ratio to the amount otherwise determined under such subparagraph as the total of the amounts appropriated for that year under paragraph (2) bears to the aggregate amount required to make an allotment to each of the States in accordance with subparagraph (A).

[(2) There is authorized to be appropriated for allotments under paragraph (1) $8,400,000 for fiscal year 1984. The provisions of section 1913 of title 18, United States Code, shall be applicable to all moneys authorized under the provisions of this section.

[PART B—UNIVERSITY AFFILATED FACILITIES

[GRANT AUTHORITY

[SEC. 121. (a) From appropriations under section 123, the Secretary shall make grants to university affiliated facilities to assist in the administration and operation of the activities described in section 102(10).

[(b) The Secretary may make one or more grants to a university affiliated facility receiving a grant under subsection (a) to support one or more of the following activities:

[(1) Conducting a feasibility study of the ways in which it, singly or jointly with other university affiliated facilities which have received a grant under subsection (a), can establish and operate one or more satellite centers which would be located in areas not served by a university affiliated facility. Such a study shall be carried out in consultation with the State Planning Council for the State in which the facility is located and where the satellite center would be established.

[(2) Assessing the need for trained personnel in providing assistance to persons with developmental disabilities.

[(3) Provision of service-related training to practitioners providing services to persons with developmental disabilities.

[(4) Conducting an applied research program designed to produce more efficient and effective methods (A) for the delivery of services to persons with developmental disabilities, and (B) for the training of professionals, paraprofessionals, and parents who provide these services.

The amount of a grant under paragraph (1) may not exceed $25,000.

[(c) The Secretary may make grants to pay part of the costs of establishing satellite centers and may make grants to satellite centers to pay part of their administration and operation costs. The Secretary may approve an application for a grant under this subsection only if the feasibility of establishing or operating the satellite center for which the grant is applied for has been established by a study assisted under this section.

[APPLICATIONS

[SEC. 122. (a) Not later than six months after the date of the enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, the Secretary shall establish by regulation standards for university affiliated facilities. These standards for facilities shall reflect the special needs of persons with developmental disabilities who are of various ages, and shall include performance standards relating to each of the activities described in section 102(10).

[(b) No grants may be made under section 121 unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require. Such an application shall be approved by the Secretary only if the application contains or is supported by reasonable assurances that—

[(1) the making of the grant will (A) not result in any decrease in the use of State, local, and other non-Federal funds for services for persons with developmental disabilities and for training of persons to provide such services, which funds would (except for such grant) be made available to the applicant, and (B) be used to supplement and, to the extent practicable, increase the level of such funds; and

[(2)(A) the applicant's facility is in full compliance with the standards established under subsection (a), or

[(B)(i) the applicant is making substantial progress toward bringing the facility into compliance with such standards, and

(ii) the facility will, not later than three years after the date of approval of the initial application or the date standards are promulgated under subsection (a), whichever is later, fully comply with such standards.

[(c) The Secretary shall establish such a process for the review of applications for grants under section 121 as will ensure, to the maximum extent feasible, that each Federal agency that provides funds for the direct support of the applicant's facility reviews the application.

(d)(1) The amount of any grant under section 121(a) to a university affiliated facility shall not be less than $150,000 for any fiscal year.

[(2) The amount of any grant under section 121(c) to a satellite center which has received a grant under section 121(b) (as in effect before the date of the enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978) for the fiscal year ending September 30, 1978, shall not be less than $75,000 for any fiscal year.

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 123. There is authorized to be appropriated to make allotments to carry out this part $7,800,000 for fiscal year 1984.

[AUTHORIZATION OF APPROPRIATIONS FOR ALLOTMENTS

[SEC. 131. There is authorized to be appropriated to carry out the provisions of this part $45,400,000 for fiscal year 1984.

[STATE ALLOTMENTS

[SEC. 132. (a)(1) In each fiscal year, the Secretary shall, in accordance with regulations and this paragraph, allot the sums appropriated for such year section 131 the States on the basis of—

[(A) the population,

[(B) the extent of need for services for persons with developmental disabilities, and

[(C) the financial need,

of the respective States. Sums allotted to the States under this section shall be used in accordance with approved State plans under section 133 for the provision under such plans of services for persons with developmental disabilities.

[(2) For any fiscal year, the allotment under paragraph (1)—

[(A) to each of American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands may not be less than $100,000, and

[(B) to any other State may not be less than the greater of $250,000, or the amount of the allotment (determined without regard to subsection (d) received by the State for the fiscal year ending September 30, 1978.

[(3) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 133(b)(2)(B), in the State plan of the State.

[(b) Whenever the State plan approved in accordance with section 133 provides for participation of more than one State agency in administering or supervising the administration or designated portions of the State plan, the State may apportion its allotment among such agencies in a manner which, to the satisfaction of the Secretary, is reasonably related to the responsibilities assigned to such agencies in carrying out the purposes of the State plan. Funds so apportioned to State agencies may be combined with other State or Federal funds authorized to be spent for other purposes, provided the purposes of the State plan will receive proportionate benefit from the combination.

[(c) Whenever the State plan approved in accordance with section 133 provides for cooperative or joint effort between States or between or among agencies, public or private, in more than one State, portions of funds allotted to one or more such cooperating States may be combined in accordance with the agreements between the agencies involved.

[(d) The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallotment by the Secretary from time to time, on such date or dates as he may fix (but not earlier than thirty days after he has published notice of his intention to make such reallotment in the Federal Register), to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State for a fiscal year shall be deemed to be a part of its allotment under subsection (a) for such fiscal year.

[STATE PLANS

[SEC. 133. (a) Any State desiring to take advantage of this part must have a State plan submitted to and approved by the Secretary under this section.

[(b) In order to be approved by the Secretary under this section, a State plan for the provision of services for persons with developmental disabilities must meet the following requirements:

[State Planning Council and Administration of Plan

[(1)(A) The plan must provide for the establishment of a State Planning Council, in accordance with section 137, for the assignment to the Council of personnel in such numbers and with such qualifications as the Secretary determines to be adequate to enable the Council to carry out its duties under that section, and for the identification of the personnel so assigned.

[(B) The plan must designate the State agency or agencies which shall administer or supervise the administration of the State plan and, if there is more than one such agency, the portion of such

plan which each will administer (or the portion the administration of which each will supervise).

[(C) The plan must provide that each State agency designated under subparagraph (B) will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to verify such reports.

[(D) The plan must provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the State under this part.

[Description of Objectives and Services

[(2) The plan must—

[(A) set out the specific objectives to be achieved under the plan and a listing of the programs and resources to be used to meet such objectives;

[(B) describe (and provide for the review annually and revision of the description not less often than once every three years) (i) the extent and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans for Federally assisted State programs as the State conducts relating to education for the handicapped, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, crippled children's services, and comprehensive health and mental health, and under such other plans as the Secretary may specify, and (ii) how funds allotted to the State in accordance with section 132 will be used to complement and augment rather than duplicate or replace services for persons with developmental disabilities which are eligible for Federal assistance under such other State programs;

[(C) for each fiscal year, assess and describe the extent and scope of the priority services (as defined in section 102(8)(B)) being or to be provided under the plan in the fiscal year; and

[(D) establish a method for the periodic evaluation of the plan's effectiveness in meeting the objectives described in subparagraph (A).

[Use of Funds

[(3) The plan must contain or be supported by assurances satisfactory to the Secretary that—

[(A) the funds paid to the State under section 132 will be used to make a significant contribution toward strengthening services for persons with developmental disabilities through agencies in the various political subdivisions of the State;

[(B) part of such funds will be made available by the State to public or nonprofit private entities;

[(C) such funds paid to the State under section 132 will be used to supplement and to increase the level of funds that would otherwise be made available for the purposes for which

Federal funds are provided and not to supplant such non-Federal funds; and

[(D) there will be reasonable State financial participation in the cost of carrying out the State plan.

[Provision of Priority Service

[(4)(A) The plan must—

[(i) provide for the examination not less often than once every three years of the provision, and the need for the provision, in the State of the four different areas of priority services (as defined in section 102(8)(B)); and

[(ii) provide for the development, not later than the second year in which funds are provided under the plan after the date of the enactment of the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978, and the timely review and revision of a comprehensive statewide plan to plan, financially support, coordinate, and otherwise better address, on a statewide and comprehensive basis, unmet needs in the State for the provision of at least one of the areas of priority services, such area or areas to be specified in the plan, and (at the option of the State) for the provision of an additional area of services for the developmentally disabled, such area also to be specified in the plan.

[(B)(i) Except as provided in clause (iii), the plan must provide that not less than $100,000 or 65 percent of the amount available to the State under section 132, whichever is greater, will be expended, as provided in clause (ii), for service activities in the areas of services specified in the plan under subparagraph (A)(ii).

[(ii) For any year in which the sums appropriated under section 131 do not exceed—

[(I) $60,000,000, not less than $100,000 or 65 percent of the amount available to the State under section 132, whichever is greater, must be expended for service activities in no more than two of the areas of services specified in the plan under subparagraph (A)(ii), and

[(II) $90,000,000, not less than $100,000 or 65 percent of the amount available to the State under section 132, whichever is greater, must be expended for service activities in no more than three of the areas of services specified in the plan under subparagraph (A)(ii).

[(iii) A State, in order to comply with clause (i) for a fiscal year beginning before January 1, 1980, is not required to reduce the amount which is available to it under section 132 and which is expended for planning activities below the amount so expended for planning activities in the preceding fiscal year, if substantially the remainder of the amount available to the State, which is expended for other than administration, is expended for service activities in the areas of services specified in the plan under subparagraph (A)(ii). For purposes of this clause, expenditures for planning activities do not include any expenditures for service activities (as defined in clause (iv)).

[(iv) For purposes of this subparagraph, the term "service activities" includes, with respect to an area of services, provision of serv-

ices in the area, model service programs in the area, activities to increase the capacity of institutions and agencies to provide services in the area, coordinating the provision of services in the area with the provision of other services, outreach to individuals for the provision of services in the area, the training of personnel to provide services in the area, and similar activities designed to expand the use and availability of services in the area.

[(C) Notwithstanding subparagraph (B), upon the application of a State, the Secretary, pursuant to regulations which the Secretary shall prescribe, may permit the portion of the funds which must otherwise be expended under the State plan for service activities in a limited number of areas of services to be expended for service activities in additional areas of services if he determines that the expenditures of the State on service activities in the initially specified areas of services has reasonably met the need for those services in the State in comparison to the extent to which the need for such additional area or areas of services has been met in such State. Such additional areas shall, to the maximum extent feasible, be areas within the areas of priority services (as defined in section 102(8)(B)).

[(D) The plan must provide that special financial and technical assistance shall be given to agencies or entities providing services for persons with developmental disabilities who are residents of geographical areas designated as urban or rural poverty areas.

[Standards for Provision of Services and Protection of Rights of Recipients of Services

[(5)(A)(i) The plan must provide that services furnished, and the facilities in which they are furnished, under the plan for persons with developmental disabilities will be in accordance with standards prescribed by the Secretary in regulations.

[(ii) The plan must provide satisfactory assurances that buildings used in connection with the delivery of services assisted under the plan will meet standards adopted pursuant to the Act of August 12, 1968 (42 U.S.C. 4151-4157) (known as the Architectural Barriers Act of 1968).

[(B) The plan must provide that services are provided in an individualized manner consistent with the requirements of section 112 (relating to habilitation plans).

[(C) The plan must contain or be supported by assurances satisfactory to the Secretary that the human rights of all persons with developmental disabilities (especially those persons without familial protection) who are receiving treatment, services, or habilitation under programs assisted under this title will be protected consistently with section 111 (relating to rights of the developmentally disabled).

[(D) The plan must provide assurances that the State has undertaken affirmative steps to assure the participation in programs under this title of individuals generally representative of the population of the State, with particular attention to the participation of members of minority groups.

[Professional Assessment and Evaluation Systems

[(6) The plan must provide for—

[(A) an assessment of the adequacy of the skill level of professionals and paraprofessionals serving persons with developmental disabilities in the State and the adequacy of the State programs and plans supporting training of such professionals and paraprofessionals in maintaining the high quality of services provided to persons with developmental disabilities in the State; and

[(B) the planning and implementation of an evaluation system (in accordance with section 110(a)).

[Utilization of VISTA Personnel; Effect of Deinstitutionalization

[(7)(A) The plan must provide for the maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Service Act of 1973 (Public Law 93–113) and other appropriate voluntary organizations, except that such volunteer services shall supplement, and shall not be in lieu of, services of paid employees.

[(B) The plan must provide for fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) to protect the interests of employees affected by actions under the plan to provide alternative community living arrangement services (as defined in section 102(8)(D)), including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees.

[Additional Information and Assurances Required by Secretary

[(8) The plan also must contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purposes of this part.

[(c) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (b). The Secretary shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

[(d)(1) At the request of any State, a portion of any allotment or allotments of such State under this part for any fiscal year shall be available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Secretary for the proper and efficient administration of the State plan approved under this section; except that not more than 5 per centum of the total of the allotments of such State for any fiscal year, or $50,000, whichever is less, shall be available for the total expenditures for such purpose by all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan. Payments under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

[(2) Any amount paid under paragraph (1) to any State for any fiscal year shall be paid on condition that there shall be expended

from the State sources for such year for administration of the State plan approved under this section not less than the total amount expended for such purposes from such sources during the previous fiscal year.

[PAYMENTS TO THE STATES FOR PLANNING ADMINISTRATION AND SERVICES

[SEC. 134. From each State's allotments for a fiscal year under section 132, the State shall be paid the Federal share of the expenditures, other than expenditures for construction, incurred during such year under its State plan approved, under this part. Such payments shall be made from time to time in advance on the basis of estimates by the Secretary of the sums the State will expend under the State plan, except that such adjustments as may be necessary shall be made on account of previously made underpayments or overpayments under this section.

[WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION, AND SERVICES

[SEC. 135. Whenever the Secretary, after reasonable notice and opportunity for hearing to the State Planning Council and the appropriate State agency, designated pursuant to section 133(b)(1) finds that—

[(1) there is a failure to comply substantially with any of the provisions required by section 133 to be included in the State plan; or

[(2) there is a failure to comply substantially with any regulations of the Secretary which are applicable to this part,

the Secretary shall notify such State Council and agency or agencies that further payments will not be made to the State under section 132 (or, in his discretion, that further payments will not be made to the State under section 132 for activities in which there is such failure), until he is satified that there will no longer be such failure. Until he is so satisfied, the Secretary shall make no further payment to the State under section 132, or shall limit further payment under section 132 to such State to activities in which there is no such failure.

[NONDUPLICATION

[SEC. 136. In determining the amount of any State's Federal share of the expenditures incurred by it under a State plan approved under section 133, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any provision of law other than section 132, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds.

[STATE PLANNING COUNCILS

[SEC. 137. (a)(1) Each State which receives assistance under this part shall establish a State Planning Council which will serve as an advocate for persons with developmental disabilities (as defined in section 102(7)). The members of the State Planning Council of a State shall be appointed by the Governor of the State from among

the residents of that State. The Governor of each State shall make appropriate provisions for the rotation of membership on the Council of his respective State. Each State Planning Council shall at all times include in its membership representatives of the principal State agencies, higher education training facilities, local agencies, and nongovernmental agencies and groups concerned with services to persons with development disabilities in that State.

[(2) At least one-half of the membership of each such Council shall consist of persons who—

[(A) are persons with developmental disabilities or parents or guardians of such persons, or

[(B) are immediate relatives or guardians of persons with mentally impairing developmental disabilities,

who are not employees of a State agency which receives funds or provides services under this part, who are not managing employees (as defined in section 1126(b) of the Social Security Act) of any other entity which receives funds or provides services under this part, and who are not persons with an ownership or control interest (within the meaning of section 1124(a)(3) of the Social Security Act) with respect to such an entity.

[(3) Of the members of the Council described in paragraph (2)—

[(A) at least one-third shall be persons with developmental disabilities, and

[(B)(i) at least one-third shall be individuals described in subparagraph (B) of paragraph (2), and (ii) at least one of such individuals shall be an immediate relative or guardian of an institutionalized person with a developmental disability.

[(b) Each State Planning Council shall—

[(1) develop jointly with the State agency or agencies designated under section 133(b)(1)(B) the State plan required by this part, including the specification of areas of services under section 133(b)(4)(A)(ii);

[(2) monitor, review, and evaluate, not less often than annually, the implementation of such State plan;

[(3) to the maximum extent feasible, review and comment on all State plans in the State which relate to programs affecting persons with developmental disabilities; and

[(4) submit to the Secretary, through the Governor, such periodic reports on its activities as the Secretary may reasonably request, and keep such records and afford such access thereto as the Secretary finds necessary to verify such reports.

[APPLICATIONS AND CONDITIONS FOR APPROVAL

[SEC. 138. If any State is dissatisfied with the Secretary's action under section 133(c) or section 135, such State may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm

the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of the fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

[PART D—SPECIAL PROJECT GRANTS

[GRANT AUTHORITY

[SEC. 145. (a) The Secretary may make grants to public or nonprofit private entities for—

[(1) demonstration projects—

[(A) which are conducted in more than one State,

[(B) which involve the participation of two or more Federal departments or agencies, or

[(C) which are otherwise of national significance,

and which hold promise of expanding or otherwise improving services to persons with developmental disabilities (especially those who are disadvantaged or multihandicapped); and

[(2) demonstration projects (including research, training, and evaluation in connection with such projects) which hold promise of expanding or otherwise improving protection and advocacy services relating to the State protection and advocacy system described in section 113.

Projects for the evaluation and assessment of the quality of services provided persons with developmental disabilities which meet the requirements of subparagraphs (A), (B), and (C) of paragraph (1) may be included as projects for which grants are authorized under such paragraph.

[(b) No grant may be made under subsection (a) unless an application therefore has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe. The Secretary may not approve such an application unless each State in which the applicant's project will be conducted has a State plan approved under section 133. The Secretary shall provide to the State Planning Council (established under section 137) for each State in which an applicant's project will be conducted an opportunity to review the application for such project and to submit its comments on the application.

[(c) Payments under grants under subsection (a) may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. The amount of any grant under subsection (a) shall be determined by the Secretary.

[(d) For the purpose of making grants under subsection (a) there is authorized to be appropriated $2,600,000 for fiscal year 1984.]

"TITLE I—PROGRAMS FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

"PART A—GENERAL PROVISIONS

"SHORT TITLE

"SEC. 100. This title may be cited as the 'Developmental Disabilities Assistance and Bill of Rights Act'.

"FINDINGS AND PURPOSES

"SEC. 101. (a) The Congress finds that—

"(1) there are more than two million persons with developmental disabilities in the United States;

"(2) individuals with disabilities occurring during their developmental period are more vulnerable and less able to reach an independent level of existence than other handicapped individuals who generally have had a normal developmental period on which to draw during the rehabilitation process;

"(3) persons with developmental disabilities often require specialized lifelong services to be provided by many agencies in a coordinated manner in order to meet the persons' needs;

"(4) generic service agencies and agencies providing specialized services to disabled persons tend to overlook or exclude persons with developmental disabilities in their planning and delivery of services; and

"(5) it is in the national interest to strengthen specific programs, especially programs that reduce or eliminate the need for institutional care, to meet the needs of persons with developmental disabilities.

"(b)(1) It is the overall purpose of this title to assist States to (A) assure that persons with developmental disabilities receive the care, treatment, and other services necessary to enable them to achieve their maximum potential through increased independence, productivity, and integration into the community, and to (B) operate a system which coordinates, monitors, plans, and evaluates services which ensures the protection of the legal and human rights of persons with developmental disabilities.

"(2) The specific purposes of this title are—

"(A) to assist in the provisions of comprehensive services to persons with developmental disabilities, with priority to those persons whose needs are not otherwise met under the Rehabilitation Act of 1973 or other health, education, or welfare programs;

"(B) to assist States in appropriate planning activities;

"(C) to make grants to States and public and private, nonprofit agencies to establish model programs, to demonstrate innovative habilitation techniques, and to train professional and paraprofessional personnel with respect to providing services to persons with developmental disabilities;

"(D) to make grants to university affiliated facilities to assist them in administering and operating demonstration facilities for the provision of services to persons with developmental disabilities, and interdisciplinary training programs for personnel needed to provide specialized services for these persons; and

"(E) to make grants to support a system in each State to protect the legal and human rights of all persons with developmental disabilities.

"DEFINITIONS

"SEC. 102. For purposes of this title:

"(1) The term 'State' includes Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the District of Columbia.

"(2) The term 'facility for persons with developmental disabilities' means a facility, or a specified portion of a facility, designed primarily for the delivery of one or more services to persons with one or more developmental disabilities.

"(3) The terms 'nonprofit facility for persons with developmental disabilities' and 'nonprofit private institution of higher learning' mean, respectively, a facility for persons with developmental disabilities and an institution of higher learning which are owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and the term 'nonprofit private agency or organization' means an agency or organization which is such a corporation or association or which is owned and operated by one or more of such corporations or associations.

"(4) The term 'construction' includes construction of new buildings, acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical, transportation, and recreation facilities); including architect's fees, but excluding the cost of offsite improvements and the cost of the acquisition of land.

"(5) The term 'cost of construction' means the amount found by the Secretary to be necessary for the construction of a project.

"(6) The term 'title', when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than fifty years undisturbed use and possession for the purposes of construction and operation of the project.

"(7) The term 'developmental disability' means a severe, chronic disability of a person which—

"(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

"(B) is manifested before the person attains age twenty-two;

"(C) is likely to continue indefinitely;

"(D) results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and

"(E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

"(8) The term 'independence' means the extent to which persons with developmental disabilities exert control and choice over their own lives.

"(9) The term 'productivity' means—

"(A) engagement in income-producing work by a person with developmental disabilities which is measured through improvements in income level, employment status, or job advancement, or

"(B) engagement by a person with developmental disabilities in work which contributes to a household or community.

"(10) The term 'integration' means—

"(A) the use, by persons with developmental disabilities, of the same community resources that are used by other citizens together with regular contact with nonhandicapped citizens, and

"(B) the residence by persons with developmental disabilities in homes or in home-like settings which are in proximity to community resources, together with regular contact with nonhandicapped citizens in their communities.

"(11)(A) The term 'services for persons with developmental disabilities' means—

"(i) priority services (as defined in subparagraph (C)); and

"(ii) any other specialized services or special adaptations of generic services for persons with developmental disabilities, including diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, training, education, sheltered employment, recreation and socialization, counseling of the person with such disability and the family of such person, protective and other social and sociolegal services, information and referral services, follow-along services, nonvocational social-developmental services, transportation services necessary to assure delivery of services to persons with developmental disabilities, and services to promote and coordinate activities to prevent developmental disabilities.

"(B) The term 'service activities' includes, with respect to an area of priority services described in subparagraph (C) or an area of services described in subparagraph (A)(ii)—

"(i) the provision of specialized services in the area which respond to unmet needs of persons with developmental disabilities;

"(ii) model service programs in the area;

"(iii) activities to increase the capacity of agencies to provide services in the area;

"(iv) the coordination of the provision of services in the area with the provision of other services;

"(v) outreach to individuals for the provision of services in the area;

"(vi) the training of personnel, including parents of persons with developmental disabilities, professionals, and volunteers, to provide services in the area; and

"(vii) similar activities designed to expand the use and availability of services in the area.

"(C) The term 'priority services' means alternative community living arrangement services (as defined in subparagraph (D)), employment related activities (as defined in subparagraph (E)), and child development services (as defined in subparagraph (G)).

"(D) The term 'alternative community living arrangement services' means (i) such services as will assist persons with developmental disabilities in developing or maintaining suitable residential arrangements in the community, including in-house services (such as personal aides and attendants and other domestic assistance and supportive services), family support services, foster care services, group living services, respite care, recreation and socialization services, and staff training, placement, and maintenance services, and (ii) case management services for persons with developmental disabilities who receive services described in clause (i).

"(E) The term 'employment related activities' means (i) such services as will increase the independence, productivity, or integration of a person with developmental disabilities in work settings, including such services as employment preparation and vocational training leading to supported employment, incentive programs for employers who hire persons with developmental disabilities, services to assist transition from special education to employment, and services to assist transition from sheltered work settings to supported employment settings or competitive employment, and (ii) case management services for persons with developmental disabilities who receive services described in clause (i).

"(F) The term 'supported employment' means paid employment which—

"(i) is for persons with developmental disabilities for whom competitive employment at or above the minimum wage is unlikely and who, because of their disabilities, need intensive ongoing support to perform in a work setting;

"(ii) is conducted in a variety of settings, particularly work sites in which persons without disabilities are employed; and

"(iii) is supported by any activity needed to sustain paid work by persons with disabilities, including supervision, training, and assistance with transportation.

"(G) The term 'child development services' means (i) such services as will assist in the prevention, identification, and alleviation of developmental disabilities in children, including early intervention services, counseling and training of parents, early identification of developmental disabilities, and diagnosis and evaluation of such developmental disabilities, and (ii) case management services for persons with developmental disabilities who receive services described in clause (i).

"(12) The term 'satellite center' means a public or private nonprofit entity which—

"(A) is affiliated with one or more university affiliated facilities;

"(B) functions as a community or regional extension of such university affiliated facility or facilities in the delivery of services to persons with developmental disabilities, and their families, who reside in geographical areas where adequate services are not otherwise available; and

"(C) may engage in the activities described in subparagraph (A), (B), or (C) of paragraph (13).

"(13) The term 'university affiliated facility' means a public or nonprofit facility which is associated with, or is an integral part of, a college or university and which provides for at least the following activities:

"(A) Interdisciplinary training for personnel concerned with developmental disabilities which is conducted at the facility and through outreach activities.

"(B) Demonstration of—

"(i) exemplary services relating to persons with developmental disabilities in settings which are integrated in the community; and

"(ii) technical assistance to generic and specialized agencies to provide services to increase the independence, productivity, and integration into the community of persons with developmental disabilities, such as the development and improvement of quality assurance mechanisms.

"(C)(i) Dissemination of findings relating to the provision of services under subparagraph (B) of this paragraph, and (ii) providing researchers and government agencies sponsoring service-related research with information on the needs for further service-related research which would provide data and information that will assist in increasing the independence, productivity, and integration into the community of persons with developmental disabilities.

"(14) The term 'Secretary' means the Secretary of Health and Human Services.

"(15) The term 'State Planning Council' means a State Planning Council established under section 124.

"FEDERAL SHARE

"SEC. 103. (a) The Federal share of all projects in a State supported by an allotment to the State under part B shall be 75 percent of the aggregate necessary costs of all such projects, as determined by the Secretary, except that in the case of projects located in urban or rural poverty areas, the Federal share of all such projects shall be 90 percent of the aggregate necessary costs of such projects, as determined by the Secretary.

"(b) The Federal share of any project to be provided through grants under part D shall be 75 percent of the necessary cost of such project, as determined by the Secretary, except that if the project is located in an urban or rural poverty area, the Federal share may not exceed 90 percent of the project's necessary costs as so determined.

"(c) The non-Federal share of the cost of any project assisted by a grant or allotment under this title may be provided in kind.

"(d) For the purpose of determining the Federal share with respect to any project, expenditures on that project by a political subdivision of a State or by a nonprofit private entity shall, subject to such limitations and conditions as the Secretary may by regulation prescribe, be deemed to be expenditures by such State in the case of a project under part B or by a university affiliated facility or a satellite center, as the case may be, in the case of a project assisted under part D.

"RECORDS AND AUDIT

"SEC. 104. (a) Each recipient of assistance under this title shall keep such records as the Secretary shall prescribe, including (1) records which fully disclose (A) the amount and disposition by such recipient of the proceeds of such assistance, (B) the total cost of the project or undertaking in connection with which such assistance is given or used, and (C) the amount of that portion of the cost of the project or undertaking supplied by other sources, and (2) such other records as will facilitate an effective audit.

"(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of assistance under this title that are pertinent to such assistance.

"RECOVERY

"SEC. 105. If any facility with respect to which funds have been paid under part B or D shall, at any time within twenty years after the completion of construction—

"(1) be sold or transferred to any person, agency, or organization which is not a public or nonprofit private entity, or

"(2) cease to be a public or other nonprofit facility for persons with developmental disabilities,

the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility which has ceased to be a public or other nonprofit facility for persons with developmental disabilities, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the

parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction of such project or projects. Such right of recovery shall not constitute a lien upon such facility prior to judgment. The Secretary, in accordance with regulations prescribed by the Secretary, may, upon finding good cause therefor, release the applicant or other owner from the obligation to continue such facility as a public or other nonprofit facility for persons with developmental disabilities.

"STATE CONTROL OF OPERATIONS

"SEC. 106. Except as otherwise specifically provided, nothing in this title shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility for persons with developmental disabilities with respect to which any funds have been or may be expended under this title.

"REPORTS

"SEC. 107. (a) By January 1 of each year, the State Planning Council of each State shall prepare and transmit to the Secretary a report concerning activities carried out during the preceding fiscal year with funds paid to the State under part B for such fiscal year. Each such report shall be in a form prescribed by the Secretary by regulation and shall contain—

"(1) a description of such activities and the accomplishments resulting from such activities;

"(2) a comparison of such accomplishments with the goals, objectives, and proposed activities specified by the State in the State plan submitted under section 122 for such fiscal year;

"(3) an accounting of the manner in which funds paid to a State under part B for a fiscal year were expended, including a specification of—

"(A) the total amount of Federal funds paid to the State under such part for such fiscal year;

"(B) the total amount of the non-Federal share for projects under such part for such fiscal year;

"(C) the total amount of Federal funds and the total amount of non-Federal funds obligated to carry out such part during such fiscal year;

"(D) the total amount of Federal funds and the total amount of non-Federal funds expended to carry out such part during such fiscal year; and

"(E) the total amount of Federal funds provided under such part which were not obligated or expended during such fiscal year;

"(4) a specification of the amount and proportion of Federal funds paid to the State under part B for such fiscal year which were allocated to—

"(A) State agencies;

"(B) local governments and local government agencies;

"(C) nonprofit private agencies; and

"(D) academic institutions; and

"(5) a description of the extent to which the individuals who actually attended meetings of the State Planning Council during such fiscal year reflect the requirements for membership on such Council specified in section 124(a).

"(b) By January 1 of each year, each protection and advocacy system established in a State pursuant to part C shall prepare and transmit a report to the Secretary a report which describes the activities and accomplishments of the system during the preceding fiscal year.

"(c)(1) By April 1 of each year the Secretary shall prepare and transmit to the President, the Congress, and the National Council on the Handicapped a report which describes—

"(A) the activities and accomplishments of programs supported under parts B, C, D, and E of this title; and

"(B) the progress made in States in improving the independence, productivity, and integration into the community of persons with developmental disabilities and any activities or services needed to improve such independence, productivity, and integration.

"(2) In preparing the report required by this subsection, the Secretary shall use and include information submitted to the Secretary in the reports required under subsections (a) and (b) of this section and section 142(a)(5).

"(d) Within 90 days after receiving from the States the assessments required under section 122(b)(6)(A), the Secretary shall prepare and transmit to the Congress, the Secretary of Education and the National Council on the Handicapped a report which summarizes and analyzes the results of such assessments.

"RESPONSIBILITIES OF THE SECRETARY

"SEC. 108. (a) The Secretary, not later than 180 days after the date of enactment of any Act amending the provisions of this title, shall promulgate such regulations as may be required for the implementation of such amendments.

"(b) Within 90 days after the date of enactment of the Developmental Disabilities Act of 1984, the Secretary of Health and Human Services and the Secretary of Education shall establish an interagency committee composed of representatives of the Administration for Developmental Disabilities of the Department of Health and Human Services, the Office of Special Education and Rehabilitative Services of the Department of Education, and such other Federal departments and agencies as the Secretary of Health and Human Services and the Secretary of Education consider appropriate. Such interagency committee shall meet regularly to coordinate and plan activities conducted by Federal departments and agencies for persons with developmental disabilities.

"EMPLOYMENT OF HANDICAPPED INDIVIDUALS

"SEC. 109. As a condition of providing assistance under this title, the Secretary shall require that each recipient of such assistance take affirmative action to employ and advance in employment qualified handicapped individuals on the same terms and condi-

tions required with respect to the employment of such individuals by the provisions of the Rehabilitation Act of 1973 which govern employment (1) by State rehabilitation agencies and rehabilitation facilities, and (2) under Federal contracts and subcontracts.

"RIGHTS OF THE DEVELOPMENTALLY DISABLED

"SEC. 110. Congress makes the following findings respecting the rights of persons with developmental disabilities:

"(1) Persons with developmental disabilities have a right to appropriate treatment, services, and habilitation for such disabilities.

"(2) The treatment, services, and habilitation for a person with developmental disabilities should be designed to maximize the developmental potential of the person and should be provided in the setting that is least restrictive of the person's personal liberty.

"(3) The Federal Government and the States both have an obligation to assure that public funds are not provided to any institutional or other residential program for persons with developmental disabilities that—

"(A) does not provide treatment, services, and habilitation which is appropriate to the needs of such persons; or

"(B) does not meet the following minimum standards:

"(i) Provision of a nourishing, well-balanced daily diet to the persons with developmental disabilities being served by the program.

"(ii) Provision to such persons of appropriate and sufficient medical and dental services.

"(iii) Prohibition of the use of physical restraint on such persons unless absolutely necessary and prohibition of the use of such restraint as a punishment or as a substitute for a habilitation program.

"(iv) Prohibition on the excessive use of chemical restraints on such persons and the use of such restraints as punishment or as a substitute for a habilitation program or in quantities that interfere with services, treatment, or habilitation for such persons.

"(v) Permission for close relatives of such persons to visit them at reasonable hours without prior notice.

"(vi) Compliance with adequate fire and safety standards as may be promulgated by the Secretary.

"(4) All programs for persons with developmental disabilities should meet standards which are designed to assure the most favorable possible outcome for those served, and—

"(A) in the case of residential programs serving persons in need of comprehensive health-related, habilitative, or rehabilitative services, which are at least equivalent to those standards applicable to intermediate care facilities for the mentally retarded promulgated in regulations of the Secretary on January 17, 1974 (39 Fed. Reg. pt. II), as appropriate when taking into account the size of the institutions and the service delivery arrangements of the facilities of the programs;

"(B) in the case of other residential programs for persons with developmental disabilities, which assure that care is appropriate to the needs of the persons being served by such programs, assure that the persons admitted to facilities of such programs are persons whose needs can be met through services provided by such facilities, and assure that the facilities under such programs provide for the humane care of the residents of the facilities, are sanitary, and protect their rights; and

"(C) in the case of nonresidential programs, which assure the care provided by such programs is appropriate to the persons served by the programs.

The rights of persons with developmental disabilities described in findings made in this section are in addition to any constitutional or other rights otherwise afforded to all persons.

"PART B—FEDERAL ASSISTANCE FOR PLANNING AND SERVICE ACTIVITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

"PURPOSE

"SEC. 121. The purpose of this part is to provide payments to States to plan for, and to conduct, activities which will increase and support the independence, productivity, and integration into the community of persons with developmental disabilities.

"STATE PLANS

"SEC. 122. (a) Any State desiring to take advantage of this part must have a State plan submitted to and approved by the Secretary under this section. Notwithstanding any other provision of law or Executive order, a State may not consolidate the State plan required by this section with any other State plan required for the receipt of Federal assistance or substitute for the State plan required by this section any other plan prepared pursuant to State law or procedures unless the State Planning Council and the State agency or agencies designated pursuant to subsection (b)(1)(B) consent in writing to such consolidation or substitution.

"(b) In order to be approved by the Secretary under this section, a State plan for the provision of services for persons with developmental disabilities must meet the following requirements:

"(1)(A) The plan must provide for the establishment of a State Planning Council, in accordance with section 124, for the assignment to the Council of personnel in such numbers and with such qualifications as the Secretary determines to be adequate to enable the Council to carry out its duties under this title, and for the identification of the personnel so assigned.

"(B) The plan must designate the State agency or agencies which shall administer or supervise the administration of the State plan and, if there is more than one such agency, the portion of such plan which each will administer (or the portion the administration of which each will supervise).

"(C) The plan must provide that each State agency designated under subparagraph (B) will make such reports, in such form and containing such information, as the Secretary or the State Planning

Council may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary or the State Planning Council finds necessary to verify such reports.

"(D) The plan must provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the State under this part.

"(2) The plan must—

"(A) set out the specific objectives to be achieved under the plan and a listing of the programs and resources to be used to meet such objectives;

"(B) set forth the non-Federal share that will be required in carrying out each such objective and program;

"(C) describe (and provide for the review annually and revision of the description not less often than once every three years) (i) the extent and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans for federally assisted State programs as the State conducts relating to education for the handicapped, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, crippled children's services, and comprehensive health and mental health, and under such other plans as the Secretary may specify, and (ii) how funds allotted to the State in accordance with section 125 will be used to complement and augment rather than duplicate or replace services for persons with developmental disabilities who are eligible for Federal assistance under such other State programs;

"(D) for each fiscal year, assess and describe the extent and scope of the priority services (as defined in section 102(11)(C)) being or to be provided under the plan in the fiscal year; and

"(E) establish a method for the periodic evaluation of the plan's effectiveness in meeting the objectives described in subparagraph (A).

"(3) The plan must contain or be supported by assurances satisfactory to the Secretary that—

"(A) the funds paid to the State under section 125 will be used to make a significant contribution toward strengthening services for persons with developmental disabilities through agencies in the various political subdivisions of the State;

"(B) part of such funds will be made available by the State to public or nonprofit private entities;

"(C) not more than 25 percent of such funds will be allocated to a designated agency for the provision of services by such agency;

"(D) such funds paid to the State under section 125 will be used to supplement and to increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant such non-Federal funds; and

"(E) there will be reasonable State financial participation in the cost of carrying out the State plan.

"(4)(A) The plan must provide for the examination not less often than once every three years of the provision, and the need for the

provision, in the State of the three areas of priority services (as defined in section 102(11)(C)).

"(B) The plan must provide for the development, not later than the second year in which funds are provided under the plan after the date of the enactment of the Developmental Disabilities Act of 1984, and the timely review and revision of, a comprehensive statewide plan to plan, financially support, coordinate, and otherwise better address, on a statewide and comprehensive basis, unmet needs in the State for the provision of—

"(i) employment related activities and, except as provided in subparagraph (C), not more than one of the other areas of priority services (as defined in section 102(11)(C)), such other area of priority services to be specified in the plan; and

"(ii) at the option of the State, of one or more additional areas of services for persons with developmental disabilities from the areas of services described in section 102(11)(A)(ii), such area or areas also to be specified in the plan.

"(C) In any case in which appropriations under section 130 for a fiscal year exceed $60,000,000, a State plan may provide for the provision of an area of priority services (as defined in section 102(11)(C)) in addition to the areas of priority services required to be provided by subparagraph (B)(i).

"(D) The plan must be developed after consideration of the data collected by the State education agency under section 618(b)(3) of the Education of the Handicapped Act.

"(E)(i) The plan must provide that not less than 65 percent of the amount available to the State under section 125 will be expended for service activities in the priority areas of services (as defined in section 102(11)(C)).

"(ii) The plan must provide that the remainder of the amount available to the State from allotments under section 125 (after making the expenditures required by clause (i) of this paragraph) shall be used for service activities for persons with developmental disabilities, and the planning, coordination, and administration of, and the advocacy for, the provision of such services.

"(F) The plan must provide that special financial and technical assistance shall be given to agencies or entities providing services for persons with developmental disabilities who are residents of geographical areas designated as urban or rural poverty areas.

"(5)(A)(i) The plan must provide that services furnished, and the facilities in which they are furnished, under the plan for persons with developmental disabilities will be in accordance with standards prescribed by the Secretary in regulations.

"(ii) The plan must provide satisfactory assurances that buildings used in connection with the delivery of services assisted under the plan will meet standards adopted pursuant to the Act of August 12, 1968 (known as the Architectural Barriers Act of 1968).

"(B) The plan must provide that services are provided in an individualized manner consistent with the requirements of section 123 (relating to habilitation plans).

"(C) The plan must contain or be supported by assurances satisfactory to the Secretary that the human rights of all persons with developmental disabilities (especially those persons without familial protection) who are receiving treatment, services, or habilitation

under programs assisted under this part will be protected consistent with section 110 (relating to rights of the developmentally disabled).

"(D) The plan must provide assurances that the State has undertaken affirmative steps to assure the participation in programs under this title of individuals generally representative of the population of the State, with particular attention to the participation of members of minority groups.

"(E) The plan must provide assurances that the State will provide the State Planning Council with a copy of each annual survey report and plan of corrections for cited deficiencies prepared pursuant to section 1902(a)(31)(B) of the Social Security Act with respect to any intermediate care facility for the mentally retarded in such State within 30 days after the completion of each such report or plan.

"(6) The plan must provide—

"(A) for an assessment to be submitted to the Secretary twenty-four months after the date of enactment of the Developmental Disabilities Act of 1984 and every three years thereafter, of—

"(i) the need for professionals and paraprofessionals in the field of developmental disabilities in the State and for the training of such professionals and paraprofessionals; and

"(ii) plans to support the training of such professionals and paraprofessionals to maintain the availability of services to persons with developmental disabilities in the State;

"(B) that the State will pay the cost of conducting such assessment from the amount described in paragraph (4)(E)(ii); and

"(C) that the State will, in arranging the conduct of such assessment, give preference to a university affiliated facility or a satellite center.

"(7)(A) The plan must provide for the maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Service Act of 1973 and other appropriate voluntary organizations, except that such volunteer services shall supplement, and shall not be in lieu of, services of paid employees.

"(B) The plan must provide for fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) to protect the interests of employees affected by actions under the plan to provide alternative community living arrangement services (as defined in section 102(11)(D)), including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees.

"(8) The plan also must contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purposes of this part.

"(c) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (b). The Secretary shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

"(d)(1) At the request of any State, a portion of any allotment or allotments of such State under this part for any fiscal year shall be

available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Secretary for the proper and efficient administration of the State plan approved under this section; except that not more than 5 per centum of the total of the allotments of such State for any fiscal year, or $50,000, whichever is less, shall be available for the total expenditures for such purpose by all of the State agencies designated under subsection (b)(1)(3) for the administration or supervision of the administration of the State plan. Payments under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

"(2) Any amount paid under paragraph (1) to any State for any fiscal year shall be paid on condition that there shall be expended from the State sources for such year for administration of the State plan approved under this section not less than the total amount expended for such purposes from such sources during the previous fiscal year.

"HABILITATION PLANS

"SEC. 123. (a) The Secretary shall require as a condition to a State's receiving an allotment under this part that the State provide the Secretary satisfactory assurances that each program (including programs of any agency, facility, or project) which receives funds from the State's allotment under this part (1) has in effect for each developmentally disabled person who receives services from or under the program a habilitation plan meeting the requirements of subsection (b), and (2) provides for an annual review, in accordance with subsection (c), of each such plan.

"(b) A habilitation plan for a person with developmental disabilities shall meet the following requirements:

"(1) The plan shall be in writing.

"(2) The plan shall be developed jointly by (A) a representative or representatives of the program primarily responsible for delivering or coordinating the delivery of services to the person for whom the plan is established, (B) such person, and (C) where appropriate, such person's parents or guardian or other representative.

"(3) The plan shall contain a statement of the long-term habilitation goals for the person and the intermediate habilitation objectives relating to the attainments of such goals. Such goals should include the increase or support of independence, productivity, and integration into the community for the person. Such objectives shall be stated specifically and in sequence and shall be expressed in behavioral or other terms that provide measurable indices of progress. The plan shall (A) describe how the objectives will be achieved and the barriers that might interfere with the achievement of them, (B) state an objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved, and (C) provide for a program coordinator who will be responsible for the implementation of the plan.

"(4) The plan shall contain a statement (in readily understandable form) of specific habilitation services to be provided,

shall identify each agency which will deliver such services, shall describe the personnel (and their qualifications) necessary for the provision of such services, and shall specify the date of the initiation of each service to be provided and the anticipated duration of each such service.

"(5) The plan shall specify the role and objectives of all parties to the implementation of the plan.

"(c) Each habilitation plan shall be reviewed at least annually by the agency primarily responsible for the delivery of services to the person for whom the plan was established or responsible for the coordination of the delivery of services to such person. In the course of the review, such person and the person's parents or guardian or other representative shall be given an opportunity to review such plan and to participate in its revision.

"STATE PLANNING COUNCILS

"SEC. 124. (a)(1) Each State which receives assistance under this part shall establish a State Planning Council which will serve as an advocate for persons with developmental disabilities. The members of the State Planning Council of a State shall be appointed by the Governor of the State from among the residents of that State. The Governor of each State shall make appropriate provisions for the rotation of membership on the Council of that State. Each State Planning Council shall at all times include in its membership representatives of the principal State agencies (including the State agency that administers funds provided under the Rehabilitation Act of 1973, the State agency that administers funds provided under the Education of the Handicapped Act, and the State agency that administers funds provided under title XIX of the Social Security Act for persons with developmental disabilities), higher education training facilities, any university affiliated facility or satellite center in the State, the State protection and advocacy system established under section 142, local agencies, and nongovernmental agencies and private nonprofit groups concerned with services to persons with developmental disabilities in that State.

"(2) At least one-half of the membership of each such Council shall consist of persons who—

"(A) are persons with developmental disabilities or parents or guardians of such persons, or

"(B) are immediate relatives or guardians of persons with mentally impairing developmental disabilities,

who are not employees of a State agency which receives funds or provides services under this part, who are not managing employees (as defined in section 1126(b) of the Social Security Act) of any other entity which receives funds or provides services under this part, and who are not persons with an ownership or control interest (within the meaning of section 1124(a)(3) of the Social Security Act) with respect to such an entity.

"(3) Of the members of the Council described in paragraph (2)—

"(A) at least one-third shall be persons with developmental disabilities, and

"(B)(i) at least one-third shall be individuals described in subparagraph (B) of paragraph (2), and (ii) at least one of such

individuals shall be an immediate relative or guardian of an institutionalized person with a developmental disability.

"(b) Each State Planning Council shall—

"(1) develop jointly with the State agency or agencies designated under section 122(b)(1)(B) the State plan required by this part, including the specification of areas of services under section 122(b)(4)(B);

"(2) monitor, review, and evaluate, not less often than annually, the implementation of such State plan;

"(3) to the maximum extent feasible, review and comment on all State plans in the State which relate to programs affecting persons with developmental disabilities; and

"(4) submit to the Secretary, through the Governor, such periodic reports on its activities as the Secretary may reasonably request, and keep such records and afford such access thereto as the Secretary finds necessary to verify such reports.

"STATE ALLOTMENTS

"SEC. 125. (a)(1) For each fiscal year, the Secretary shall, in accordance with regulations and this paragraph, allot the sums appropriated for such year under section 130 among the States on the basis of—

"(A) the population,

"(B) the extent of need for services for persons with developmental disabilities, and

"(C) the financial need,

of the respective States. Sums allotted to the States under this section shall be used in accordance with approved State plans under section 122 for the provision under such plans of services for persons with developmental disabilities.

"(2) The Secretary may not revise the basis on which allotments are made under clauses (A), (B), and (C) of paragraph (1) more than once every three years. In any case in which the Secretary determines that changes in the factors described in such clauses warrant such a revision, the Secretary shall, at least six months prior to the date on which the Secretary requires the submission of State plans under section 122 for the next succeeding fiscal year, provide each State with a written notice specifying the basis on which allotments will be made under such paragraph.

"(3)(A) The allotment of a State under paragraph (1) for any fiscal year may not be less than the allotment of such State for fiscal year 1984 under part B of this title (as such part was in effect on September 30, 1984).

"(B) In any case in which amounts appropriated under section 130 for a fiscal year exceed $45,000,000, the allotment under paragraph (1) for such fiscal year—

"(i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands may not be less than $135,000; and

"(ii) to each of the several States, Puerto Rico, or the District of Columbia, may not be less than $300,000.

"(4) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 122(b)(2)(C), in the State plan of the State.

"(b) Whenever the State plan approved in accordance with section 122 provides for participation of more than one State agency in administering or supervising the administration of designated portions of the State plan, the State may apportion its allotment among such agencies in a manner which, to the satisfaction of the Secretary, is reasonably related to the responsibilities assigned to such agencies in carrying out the purposes of the State plan. Funds so apportioned to State agencies may be combined with other State or Federal funds authorized to be spent for other purposes, provided the purposes of the State plan will receive proportionate benefit from the combination.

"(c) Whenever the State plan approved in accordance with section 122 provides for cooperative or joint effort between States or between or among agencies, public or private, in more than one State, portions of funds allotted to one or more such cooperating States may be combined in accordance with the agreements between the agencies involved.

"(d) The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallotment by the Secretary from time to time, on such date or dates as the Secretary may fix (but not earlier than thirty days after the Secretary has published notice of the intention of the Secretary to make such reallotment in the Federal Register), to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State for a fiscal year shall be deemed to be a part of its allotment under subsection (a) for such fiscal year.

"PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION AND SERVICES

"SEC. 126. From each State's allotments for a fiscal year under section 125, the State shall be paid the Federal share of the expenditures, other than expenditures for construction, incurred during such year under its State plan approved under this part. Such payments shall be made from time to time in advance on the basis of estimates by the Secretary of the sums the State will expend under the State plan, except that such adjustments as may be necessary shall be made on account of previously made underpayments or overpayments under this section.

"WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION AND SERVICES

"SEC. 127. Whenever the Secretary, after reasonable notice and opportunity for hearing to the State Planning Council and the appropriate State agency designated pursuant to section 122(b)(1) finds that—

"(1) there is a failure to comply substantially with any of the provisions required by section 122 to be included in the State plan; or

"(2) there is a failure to comply substantially with any regulations of the Secretary which are applicable to this part,

the Secretary shall notify such State Council and agency or agencies that further payments will not be made to the State under section 125 (or, in the discretion of the Secretary, that further payments will not be made to the State under section 125 for activities in which there is such failure), until the Secretary is satisfied that there will no longer be such failure. Until the Secretary is so satisfied, the Secretary shall make no further payment to the State under section 125, or shall limit further payment under section 125 to such State to activities in which there is no such failure.

"NONDUPLICATION

"SEC. 128. In determining the amount of any State's Federal share of the expenditures incurred by it under a State plan approved under section 122, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any provision of law other than section 125, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds.

"APPLICATIONS AND CONDITIONS FOR APPROVAL

"SEC. 129. If any State is dissatisfied with the Secretary's action under section 122(c) or section 127, such State may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by the Secretary for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based the action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside the order of the Secretary. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of the fact and may modify the previous action of the Secretary, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Sec-

retary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 130. For allotments under section 125, there are authorized to be appropriated $54,500,000 for fiscal year 1985, $58,300,000 for fiscal year 1986, and $62,400,000 for fiscal year 1987.

"PART C—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

"PURPOSE

"SEC. 141. It is the purpose of this part to provide for allotments to support a system in each State to protect the legal and human rights of persons with developmental disabilities in accordance with section 142.

"SYSTEM REQUIRED

"SEC. 142. (a) In order for a State to receive an allotment under part B—

"(1) the State must have in effect a system to protect and advocate the rights of persons with developmental disabilities;

"(2) such system must—

"(A) have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such persons who are receiving treatment, services, or habilitation within the State and to provide information on and referral to programs and services addressing the needs of persons with developmental disabilities;

"(B) not be administered by the State Planning Council;

"(C) be independent of any agency which provides treatment, services, or habilitation to persons with developmental disabilities; and

"(D) except as provided in subsection (c), be able to obtain access to the records of a person with developmental disabilities who receives services under this title and who resides in a facility for persons with developmental disabilities if—

"(i) a complaint has been received by the system from or on behalf of such person; and

"(ii) such person does not have a legal guardian or the State or the designee of the State is the legal guardian of such person;

"(3) the State must provide assurances to the Secretary that funds allotted to the State under this section will be used to supplement and increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant such non-Federal funds;

"(4) the State must provide assurances to the Secretary that such system will be provided with a copy of each annual survey report and plan of corrections for cited deficiencies made pursuant to section 1902(a)(31)(B) of the Social Security Act with re-

spect to any intermediate care facility for the mentally retarded in the State within 30 days after the completion of each such report or plan; and

"(5) the State must submit to the Secretary, within 90 days after the end of each fiscal year, a report in a form prescribed by the Secretary which describes such system and describes the expenditures made by the State from allotments under subsection (d).

"(b) A State may not redesignate the agency of the State which administers the system required by subsection (a) unless the State determines that good cause exists to warrant such redesignation. In any case in which a State determines that such good cause exists, the State shall, prior to such redesignation, give public notice of its intent to make such redesignation and give persons with developmental disabilities or their representatives an opportunity to comment on such proposed redesignation.

"(c) Prior to October 1, 1986, the provisions of paragraph (2)(D) of subsection (a) shall not apply to any State in which the laws of the State prohibit the system required under such subsection from obtaining access to the records of a person with developmental disabilities under the conditions described in such paragraph.

"(d)(1) To assist States in meeting the requirements of subsection (a), the Secretary shall allot to the States the amounts appropriated under section 143. Allotments and reallotments of such sums shall be made on the same basis as the allotments and reallotments are made under the first sentence of subsection (a)(1) and subsection (d) of section 125, except that—

"(A) the allotment of any State under this subsection for any fiscal year shall not be less than the allotment of such State for fiscal year 1984 under section 113(b) (as such section was in effect on September 30, 1984); and

"(B) in any case in which the amounts appropriated under section 143 for a fiscal year exceed $9,500,000—

"(i) the allotment of each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands for such fiscal year shall not be less than $60,000; and

"(ii) the allotment to each of the several States, Puerto Rico, and the District of Columbia for such fiscal year shall not be less than $100,000.

"(2) A State may use not more than 5 percent of any allotment under this subsection for the costs of monitoring the administration of the system required under subsection (a).

"(3) Notwithstanding paragraph (1), if the aggregate of the amounts of the allotments for grants to be made in accordance with such paragraph for any fiscal year exceeds the total of the amounts appropriated for such allotments under section 143, the amount of a State's allotment for such fiscal year shall bear the same ratio to the amount otherwise determined under such paragraph as the total of the amounts appropriated for that year under section 143 bears to the aggregate amount required to make an allotment to each of the States in accordance with paragraph (1).

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 143. For allotments under section 142, there are authorized to be appropriated $15,000,000 for fiscal year 1985, $16,100,000 for fiscal year 1986, and $17,200,000 for fiscal year 1987. The provisions of section 1913 of title 18, United States Code, shall be applicable to all moneys authorized under the provisions of this section.

"PART D—UNIVERSITY AFFILIATED FACILITIES

"PURPOSE

"SEC. 151. The purpose of this part is to provide for grants to university affiliated facilities to assist in the provision of interdisciplinary training, the conduct of service demonstration programs, and the dissemination of information which will increase and support the independence, productivity, and integration into the community of persons with developmental disabilities.

"GRANT AUTHORITY

"SEC. 152. (a) From appropriations under section 154, the Secretary shall make grants to university affiliated facilities to assist in the administration and operation of the activities described in section 102(13).

"(b) The Secretary may make one or more grants to a university affiliated facility receiving a grant under subsection (a) to support one or more of the following activities:

"(1) Conducting—

"(A) a study of the feasibility of establishing a university affiliated facility or a satellite center in an area not served by a university affiliated facility, including an assessment of the needs of the area for such a facility or center; or

"(B) a study of the ways in which such university affiliated facility, singly or jointly with other university affiliated facilities which have received a grant under subsection (a), can assist in establishing one or more satellite centers which would be located in areas not served by a university affiliated facility.

A study under subparagraph (A) or subparagraph (B) shall be carried out in consultation with the State Planning Council for the State in which the university affiliated facility conducting the study is located and the State Planning Council for the State in which the university affiliated facility or satellite center would be established.

"(2) Provision of service-related training to parents of persons with developmental disabilities, professionals, volunteers, or other personnel to enable such parents, professionals, volunteers, or personnel to provide services to increase or maintain the independence, productivity, and integration into the community of persons with developmental disabilities.

"(3) Conducting an applied research program designed to produce more efficient and effective methods (A) for the delivery of services to persons with developmental disabilities, and (B)

for the training of professionals, paraprofessionals, and parents who provide these services.

The amount of a grant under paragraph (1) may not exceed $25,000.

"(c) The Secretary may make grants to pay part of the costs of establishing satellite centers and may make grants to satellite centers to pay part of their administration and operation costs. A satellite center which receives a grant under this section may engage in the activities described in subparagraph (A), (B), or (C) of section 102(13).

"(d)(1) The Secretary may not make a grant under subsection (c) for the fiscal year ending on September 30, 1985, to a satellite center which has not received a grant under such subsection or section 121(c) (as such section was in effect prior to October 1, 1984) unless—

"(A) a study assisted under subsection (b)(1)(A) of this section has established the feasibility of establishing or operating such center, except that such study shall not be required to contain an assessment of the need for such center in the area in which such center will be located; or

"(B) a study assisted under section 121(b)(1) (as in effect prior to October 1, 1984) has established the feasibility of establishing or operating such center.

"(2) The Secretary may not make a grant under subsection (a) or subsection (c) for a fiscal year beginning after September 30, 1985, to a university affiliated facility or a satellite center which has not received a grant under this section or section 121 (as such section was in effect prior to October 1, 1984) unless—

"(A) a study assisted under subsection (b)(1)(A) has been conducted with respect to such facility or center by a university affiliated facility; and

"(B) such study has established the feasibility of establishing or operating such facility or center.

"(e) In any case in which amounts appropriated under section 154 for a fiscal year exceed $7,800,000, the Secretary shall expend the amount of such excess to carry out the activities described in the following clauses in the following order of priority:

"(1) The Secretary shall make grants under subsection (c) to establish satellite centers which have not previously received a grant under this section or section 121(c) (as such section was in effect prior to October 1, 1984) and shall make grants under subsection (a) to university affiliated facilities which have not previously received a grant under this section or section 121(a) (as such section was in effect prior to October 1, 1984).

"(2) The Secretary shall make grants under subsection (a) to satellite centers which—

"(A) have received a grant under this section or section 121(c) (as such section was in effect prior to October 1, 1984); and

"(B) have demonstrated the capacity to become university affiliated facilities,

in order to enable such centers to become such facilities.

"(3) The Secretary shall make grants to university affiliated facilities under subsection (a) and satellite centers under subsection (c) to enable such facilities or centers to carry out a specific

activity described in subparagraph (A), (B), or (C) of section 102(13).

"APPLICATIONS

"SEC. 153. (a) Not later than six months after the date of the enactment of the Developmental Disabilities Act of 1984, the Secretary shall establish by regulation standards for university affiliated facilities. Such standards shall reflect the special needs of persons with developmental disabilities who are of various ages, and shall include performance standards relating to each of the activities described in section 102(13).

"(b) No grants may be made under section 152 unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require. Such an application shall be approved by the Secretary only if the application contains or is supported by reasonable assurances that—

"(1) the making of the grant will (A) not result in any decrease in the use of State, local, and other non-Federal funds for services for persons with developmental disabilities and for training of persons to provide such services, which funds would (except for such grant) be made available to the applicant, and (B) be used to supplement and, to the extent practicable, increase the level of such funds;

"(2)(A) the applicant's facility is in full compliance with the standards established under subsection (a), or

"(B)(i) the applicant is making substantial progress toward bringing the facility into compliance with such standards, and (ii) the facility will, not later than three years after the date of approval of the initial application or the date standards are promulgated under subsection (a), whichever is later, fully comply with such standards; and

"(3) the human rights of all persons with developmental disabilities (especially those persons without familial protection) who are receiving treatment, services, or habilitation under programs assisted under this part will be protected consistent with section 110 (relating to rights of the developmentally disabled).

"(c) The Secretary shall establish such a process for the review of applications for grants under section 152 as will ensure, to the maximum extent feasible, that each Federal agency that provides funds for the direct support of the applicant's facility reviews the application.

"(d) The amount of any grant under section 152(a) to a university affiliated facility shall not be less than $150,000 for any fiscal year, and the amount of any grant under section 152(c) to a satellite center shall not be less than $75,000 for any fiscal year.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 154. For the purpose of making grants under section 152, there are authorized to be appropriated $9,400,000 for fiscal year 1985, $10,100,000 for fiscal year 1986, and $10,800,000 for fiscal year 1987.

"PART E—SPECIAL PROJECT GRANTS

"PURPOSE

"SEC. 161. The purpose of this part is to provide for grants for demonstration projects to increase and support the independence, productivity, and integration into the community of persons with developmental disabilities.

"GRANT AUTHORITY

"SEC. 162. (a) The Secretary may make grants to public or nonprofit private entities for —

"(1) demonstration projects—

"(A) which are conducted in more than one State,

"(B) which involve the participation of two or more Federal departments or agencies, or

"(C) which are otherwise of national significance,

and which hold promise of expanding or otherwise improving services to persons with developmental disabilities (especially those who are disadvantaged or multihandicapped); and

"(2) technical assistance and demonstration projects (including research, training, and evaluation in connection with such projects) which hold promise of expanding or otherwise improving protection and advocacy services relating to the State protection and advocacy system described in section 142.

Projects for the evaluation and assessment of the quality of services provided persons with developmental disabilities which meet the requirements of subparagraphs (A), (B), and (C) of paragraph (1) may be included as projects for which grants are authorized under such paragraph.

"(b) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe. The Secretary may not approve such an application unless each State in which the applicant's project will be conducted has a State plan approved under section 122, and unless the application provides assurances that the human rights of all persons with developmental disabilities (especially those persons without familial protection) who are receiving treatment, services, or habilitation under projects assisted under this part will be protected consistent with section 110 (relating to the rights of the developmentally disabled). The Secretary shall provide to the State Planning Council for each State in which an applicant's project will be conducted an opportunity to review the application for such project and to submit its comments on the application.

"(c) Payments under grants under subsection (a) may be made in advance or by way of reimbursement and at such intervals and on such conditions, as the Secretary finds necessary. The amount of any grant under subsection (a) shall be determined by the Secretary.

"(d) The Secretary shall not consolidate the authority to make grants under this section with any other authority to make grants which the Secretary has under any other law.

STUDY ON INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED

"SEC. 163. (a) Within six months after the date of enactment of the Developmental Disabilities Act of 1984, the Secretary shall prepare and transmit to the Congress a report containing—

"(1) recommendations for improving services for mentally retarded persons and persons with developmental disabilities provided under an approved State plan under title XIX of the Social Security Act so that the manner in which such services are provided will increase the independence, productivity, and integration into the community of mentally retarded persons and persons with developmental disabilities;

"(2) recommendations for services provided for mentally retarded persons and persons with developmental disabilities under waivers granted under section 1915(c) of the Social Security Act so that the manner in which such services are provided can be improved and expanded to increase the independence, productivity, and integration into the community of mentally retarded persons and persons with developmental disabilities; and

"(3) comments by each of the officials specified in clauses (2) through (5) of subsection (b) on the recommendations included in the report pursuant to paragraph (1), including comments concerning the effect of such recommendations, if implemented, on programs carried out by such officials.

"(b) To assist the Secretary in preparing the report required by subsection (a), there is established a task force composed of:

"(1) the Secretary (or the designee of the Secretary);

"(2) the Administrator of the Health Care Financing Administration of the Department of Health and Human Services (or the designee of the Administrator);

"(3) the Commissioner of the Administration for Developmental Disabilities of the Department of Health and Human Services (or the designee of the Commissioner);

"(4) the Chairman of the National Council on the Handicapped (or the designee of the Chairman); and

"(5) the Assistant Secretary of Education for Special Education and Rehabilitative Services (or the designee of the Assistant Secretary).

"(c) To conduct the study required by this section, the Secretary may expend not more than $75,000 from the amounts appropriated under section 164 for fiscal year 1985.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 164. To carry out this part, there are authorized to be appropriated $3,200,000 for fiscal year 1985, $3,700,000 for fiscal year 1986, and $4,000,000 for fiscal year 1987.".

COMPARISON OF CURRENT LAW AND S. 2573—SECTION-BY-SECTION

Section description S. 2573	Existing law section number	S. 2573 section number	Year first enacted
Part A—General provisions: Short title	Sec. 100	Sec. 100	1970
Findings and purposes	Sec. 101(a)(1)	Sec. 101(a)(1)	1978
Overall purpose	Sec. 101(b)(1)	Sec. 101(b)(1)	1978
Independence, productivity, and integration [1]		Sec. 101(b)(1)	
Specific purpose	Sec. 101(b)(2)	Sec. 101(b)(2)	1978
Definitions	Sec. 102	Sec. 102	
"State"	Sec. 102(1)	Sec. 102(1)	1970
"Facility"	Sec. 102(2)	Sec. 102(2)	1970
"Nonprofit facility"	Sec. 102(3)	Sec. 102(3)	1970
"Construction"	Sec. 102(4)	Sec. 102(4)	1963
"Cost of construction"	Sec. 102(5)	Sec. 102(5)	1963
"Title"	Sec. 102(6)	Sec. 102(6)	1963
"Developmental disability"	Sec. 102(7)	Sec. 102(7)	1970, 1975, 1978
Categorical definition			1970, 1975
Functional definition			1978
"Independence" [1]		Sec. 102(8) [1]	
"Productivity" [1]		Sec. 102(9) [1]	
"Integration" [1]		Sec. 102(10) [1]	
"Services for persons with DD"	Sec. 102(8)(A)	Sec. 102(11)(A)	1978
"Service activities"	Sec. 133(b)(4)(B)(iv)	Sec. 102(11)(B)	1978
"Priority services" [1]	Sec. 102(8)(B)	Sec. 102(11)(C)	1978
"Alternative community living"	Sec. 102(8)(E)	Sec. 102(11)(D)	1978
"Employment related activities" [1]		Sec. 102(11)(E)	
"Supported employment" [1]		Sec. 102(11)(F)	
"Child development"	Sec. 102(8)(D)	Sec. 102(11)(G)	1978
"Satellite center" [1]	Sec. 102(9)	Sec. 102(12)	1975
"University affiliated facility" [1]	Sec. 102(10)	Sec. 102(13)	1963, 1970, 1975, and 1978
"Secretary"	Sec. 102(11)	Sec. 102(14)	1963, 1981
"State planning council"	Sec. 102(12)	Sec. 102(15)	1970
Federal share [1]	Sec. 103	Sec. 103 [1]	1970
Records and audit	Sec. 105	Sec. 104	1970
Recovery	Sec. 107	Sec. 105	1970
State control of operations	Sec. 104	Sec. 106	1970
Reports [1]		Sec. 107	
Responsibilities of Secretary		Sec. 108(a)	1975

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Interagency committee [1]		Sec. 108(b)	
Employment of handicapped individuals	Sec. 106	Sec. 109	1975
Rights of developmental disability	Sec. 111	Sec. 110	1975
Part B—Federal assistance for planning and service activities:			
Purpose [1]		Sec. 121 [1]	
State plans	Sec. 133(a)	Sec. 122(a) [1]	1970
Planning council and administration of plan	Sec. 133(b)(1)(A)	Sec. 122(b)(1)(A)	1974
Designation of State agency	Sec. 133(b)(1)(B)	Sec. 122(b)(1)(B)	1978
Agency makes reports	Sec. 133(b)(1)(C)	Sec. 122(b)(1)(C)	1978
Plan have fiscal controls	Sec. 133(b)(1)(D)	Sec. 122(b)(1)(D)	1978
Plan give objectives	Sec. 133(b)(2)(A)	Sec. 122(b)(2)(A)	1978
Set non-Federal share [1]		Sec. 122(b)(2)(B) [1]	
Review scope of services	Sec. 133(b)(2)(B)	Sec. 122(b)(2)(C)	1978
Review priority services	Sec. 133(b)(2)(C)	Sec. 122(b)(2)(D)	1978
Evaluation of plan	Sec. 133(b)(2)(D)	Sec. 122(b)(2)(E)	1978
Use funds for services	Sec. 133(b)(3)(A)	Sec. 122(b)(3)(A)	1978
Funds to nonprofit privates	Sec. 133(b)(3)(B)	Sec. 122(b)(3)(B)	1978
No more than 25 percent to agency [1]		Sec. 122(b)(3)(C) [1]	
Not supplement	Sec. 133(b)(3)(C)	Sec. 122(b)(3)(D)	1970
Reasonable State financial cost	Sec. 133(b)(3)(D)	Sec. 122(b)(3)(E)	1970
Examine priority areas every 2 yr	Sec. 133(b)(4)(A)	Sec. 122(b)(4)(A)	1978
1-yr phasein of priority	Sec. 133(b)(4)(B)	Sec. 122(b)(4)(B)	1978
Employment related activities [1]		Sec. 122(b)(4)(B)(i) [1]	
State option priority [1]		Sec. 122(b)(4)(B)(ii) [1]	
Education of handicapped statistics [1]		Sec. 122(b)(4)(C) [1]	
Exceed $60M 3d priority [1]		Sec. 122(b)(4)(D) [1]	
65 percent of funds for priority	Sec. 133(b)(4)(B)(i)	Sec. 122(b)(4)(E)(i)	1978
35 percent for other services, advocacy [1]		Sec. 122(b)(4)(E)(ii) [1]	
Technical assistance to agencies	Sec. 133(b)(4)(D)	Sec. 122(b)(4)(F)	1978
Standards for services	Sec. 133(b)(5)(A)(i)	Sec. 122(b)(5)(A)(i)	1970
Buildings comply Arch Barr Act	Sec. 133(b)(5)(A)(ii)	Sec. 122(b)(5)(A)(ii)	1975
Services consistent with habilitation plan	Sec. 133(b)(5)(B)	Sec. 122(b)(5)(B)	1975
Human rights protected	Sec. 133(b)(5)(C)	Sec. 122(b)(5)(C)	1975
Participation of minorities	Sec. 133(b)(5)(D)	Sec. 122(b)(5)(D)	1978
State council receive ICFMR report [1]		Sec. 122(b)(5)(E) [1]	
Manpower assessment [1]		Sec. 122(b)(6)(A) [1]	1978
State pay cost of assessment [1]		Sec. 122(b)(6)(B) [1]	
Give preference to UAF for study [1]		Sec. 122(b)(6)(C) [1]	
Use of volunteers	Sec. 133(b)(7)(A)	Sec. 122(b)(7)(A)	1975
Employee protections	Sec. 133(b)(7)(B)	Sec. 122(b)(7)(B)	1975

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COMPARISON OF CURRENT LAW AND S. 2573—SECTION-BY-SECTION—Continued

Section description S. 2573	Existing law section number	S. 2573 section number	Year first enacted
Additional assurances to be provided	Sec. 133(b)(8)	Sec. 122(b)(8)	1975
Habilitation plan	Sec. 112	Sec. 123	1975
State planning council	Sec. 137	Sec. 124	
Establishment of council	Sec. 137(a)(1)	Sec. 124(a)(1)	1975
Council membership [1]	Sec. 137(a)(1)	Sec. 124(a)(1) [1]	
Consumer membership of council	Sec. 137(a) (2), (3)	Sec. 124(a) (2), (3)	1978
Develop State plan	Sec. 137(b)	Sec. 124(b)	1975
State allotments	Sec. 132	Sec. 125	
Distribution of funding	Sec. 132(a)(1)	Sec. 125(a)	
6 mo notice for revision of State allotment [1]		Sec. 125(a)(2) [1]	
Allotment not less than fiscal year 1984 [1]		Sec. 125(a)(3)(A) [1]	
Minimum allotments for territories and States increased [1]	Sec. 132(a)(2)	Sec. 125(a)(3)(B) [1]	1975
Secretary take into account service provision	Sec. 132(a)(3)	Sec. 125(a)(4)	1975
Participation of more than 1 agency	Sec. 132(b)	Sec. 125(b)	1970
Combining of funds with agencies	Sec. 132(c)	Sec. 125(c)	1970
Unobligated funds to other States	Sec. 132(d)	Sec. 125(d)	1970
Payments to States for planning, etc	Sec. 134	Sec. 126	1975
Withholding of payments	Sec. 135	Sec. 127	1970, 1975
Nonduplication	Sec. 136	Sec. 128	1975
Applications for approval (formerly "Judicial Review")	Sec. 138	Sec. 129	1975
Authorization of appropriations [1]	Sec. 123	Sec. 130 [1]	1970
Part C—Protection and advocacy:			
Purpose		Sec. 141 [1]	
System required	Sec. 113(a)	Sec. 142(a)(1)	1975
Provide information and referral [1]		Sec. 142(a)(2) [1]	
Not be administered by State council	Sec. 113(a)(2)(B)	Sec. 142(a)(2)(B)	1975
Independent of agency	Sec. 113(a)(2)(C)	Sec. 142(a)(2)(C)	1975
P&A access to client records in institutions [1]		Sec. 142(a)(2)(D) [1]	
Supplement funds [1]		Sec. 142(a)(3) [1]	
Provide annual ICFMR survey [1]		Sec. 142(a)(4) [1]	
Report to secretary	Sec. 113(a)(3)	Sec. 142(a)(5)	1975
No redesignation of agency [1]		Sec. 142(b) [1]	
1981 trigger for records access [1]		Sec. 142(c) [1]	
State allotment requirements	Sec. 113(b)	Sec. 142(d)	1975
Allotment not less than fiscal year 1984 [1]		Sec. 142(d)(1)(A) [1]	

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Minimums increased when allotment exceed $9.5M [1]		Sec. 142(d)(1)(B) [1]	
Allotments for territories and States increased [1]	Sec. 113(b)(1)(A)	Sec. 142(d)(1)(B) (i), (ii) [1]	1975
Not use more than 5 percent for administration costs [1]		Sec. 142(d)(2) [1]	
Aggregate allotments for grants	Sec. 113(b)(1)(B)	Sec. 142(d)(3)	1975
Authorization of appropriations [1]	Sec. 113(b)(2)	Sec. 143 [1]	
Part D—University affiliated facilities			1963
Purpose [1]		Sec. 151 [1]	
Grant authority	Sec. 121	Sec. 152	1963
Feasibility study and needs asses. [1]	Sec. 121(b)(1)	Sec. 152(b)(1)(A) [1]	1970
Establishing new satellite centers [1]		Sec. 152(b)(1)(B) [1]	
Service-related training	Sec. 121(b)(3)	Sec. 152(b)(2)	1963
Conducting applied research	Sec. 121(b)(4)	Sec. 152(b)(3)	1963
Establishing satellite centers	Sec. 121(c)	Sec. 152(c)	1975
Study to determine UAF or satellite [1]		Sec. 152(d) [1]	
Priorities for new UAFs or satellites when approp. exceed $7.8M [1]		Sec. 152(e) [1]	
Applications	Sec. 122	Sec. 153	1970
Secretary promulgating regulations	Sec. 122(a)	Sec. 153(a)	1970
Applications for approval to secretary	Sec. 122(b)	Sec. 153(b)	1963
Human rights be protected [1]		Sec. 153(b)(3) [1]	
Secretary review applications	Sec. 122(c)	Sec. 153(c)	1963
Minimum allotments	Sec. 122(d)	Sec. 153(d)	1970
Authorization of appropriations [1]	Sec. 123	Sec. 154	1963
Part E—Special project grants			1970
Purpose [1]		Sec. 161	
Grant authority	Sec. 145	Sec. 162	1970
Demonstration projects [1]	Sec. 145(a)	Sec. 162(a)(1) [1]	1970
Technical assistance projects [1]		Sec. 162(a)(2) [1]	
Application to secretary	Sec. 145(b)	Sec. 162(b)	1970
Payments in advance	Sec. 145(c)	Sec. 162(c)	1970
Secretary not consolidate authority [1]		Sec. 162(d)	
Study on intermediate care facilities for mentally retarded [1]		Sec. 163 [1]	
Authorization of appropriations [1]	Sec. 145(d)	Sec. 164 [1]	1970
Effective date		Sec. 3 [1]	

[1] Indicates an amendment as contained in S. 2573.

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